

ARRANGEMENT
OF
THE PAPERS
PRINTED BY ORDER
OF
THE HOUSE OF COMMONS,
Session 1830,
(N° 1. to N° 694.)
IN THIRTY-THREE VOLUMES:

SPECIFYING
THE NUMBER OF VOLUMES;
AND CONTAINING
THE TITLE PAGES, TABLES OF CONTENTS, AND OUTSIDE LABELS,
TO EACH VOLUME;
WITH
A NUMERICAL LIST OF THE PRINTED PAPERS;
AND,
A GENERAL ALPHABETICAL INDEX TO THE WHOLE:

TOGETHER WITH
A TABLE AND INDEX OF THE PUBLIC GENERAL ACTS
PASSED IN THIS SESSION.

5 February — 23 July 1830.

THIS BOOK
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1830.



SESS. 1830.

THIRTY-THREE VOLUMES.

VOLUME.

1.—BILLS, PUBLIC :—Three Volumes.

- I. —(1.)— Administration of Justice; Courts of Local Jurisdiction; Common Law Fees; Sign Manual; Churches; Ecclesiastical Leasing; Tithes; Felony; Forgery; Bankruptcy; Madras Registrar; East Retford Election; Lunatics; &c.
- II. —(2.)— Annuities; Army Pensions; Beer; Canada; Constables and Constabulary; County Rates; Four-per-Cent; Game; Holyhead Roads, &c.
- III. —(3.)— Marriages; Militia; Navy; Poor; Population; Labourers' Wages; Subletting; Tolls and Customs; Usury; Vestries; Slave Trade, &c.

WITH A TABLE AND INDEX OF ACTS PASSED.

2.—REPORTS FROM COMMITTEES :—Seven Volumes.

- IV. —(1.)— Expired and Expiring Laws; Library of the House; Parliamentary Reports Classification; Wexford Election; Select Vestries; Population Bill; &c.
 - V. —(2.)— East India Company's Affairs.
 - VI. —(3.)— East India Company's Affairs.
 - VII. —(4.)— State of the Poor in Ireland.
 - VIII. —(5.)— State of the Coal Trade.
 - IX. —(6.)— Civil List; Windsor Castle.
 - X. —(7.)— Sale of Beer; Holyhead and Northern Roads; High Sheriffs; Hackney Coach Office; Sierra Leone and Fernando Po; Tobacco Cultivation, &c.
-

3.—REPORTS FROM COMMISSIONERS :—Six Volumes.

- XI. —(1.)— Real Property; Common Law.
 - XII. —(2.)— Education and Charities—(22.)—in *England and Wales*; viz. Cities of London and Worcester; Counties of Gloucester, Middlesex, Suffolk and Worcester.—(23.) Cities of London and Worcester; Counties of Durham, Northampton, Northumberland, Somerset, Suffolk, Worcester and York; Towns of Newcastle-upon-Tyne and Berwick-upon-Tweed.
 - XIII. —(3.)— Revenue arising in *Ireland and Great Britain*; Twentieth and Twenty-first Reports; Post-office in *Scotland*, and Twopenny Post-office in *England*.
 - XIV. —(4.)— Revenue arising in *Ireland and Great Britain*; Twenty-second Report; Packet Establishments, Home Stations.
 - XV. —(5.)— Churches; Holyhead Roads; Highland Roads and Bridges; Caledonian Canal; Metropolis Turnpike Roads; Roads and Bridges, Ireland; Fisheries; Courts of Justice, and Education, Ireland; Carnatic Debts.
 - XVI. —(6.)— Woods, Forests and Land Revenues; Public Records, Ireland.
-

(continued.)

VOLUME.

4.—FINANCE AND REVENUE.

- XVII. —THE FINANCE ACCOUNTS of the United Kingdom, in VIII Classes;—
also, Accounts relating to Revenue, Bank of England, Coinage and
Currency, Superannuations, Salaries, &c.
-

5.—ESTIMATES AND ACCOUNTS.

- XVIII. —The Army; Commissariat; Ordnance; Navy; Miscellaneous Services; Civil
Contingencies; British Museum; &c.
-

6.—ACCOUNTS AND PAPERS :—Thirteen Volumes.

- XIX. — (1.) — Church; Ecclesiastical Courts; First Fruits; Tithes.
XX. — (2.) — Chancery; Courts of Justice; Judges Salaries.
XXI. — (3.) — Diplomatic and Consular Establishments; Colonies; Slaves.
XXII. — (4.) — Corn; Beer; Malt; Spirits; Distillers; Rum; Wine.
XXIII. — (5.) — Convicts; Criminals; Forgery; Debtors; Penitentiary; Police.
XXIV. — (6.) — Gaols and Prisons.
XXV. — (7.) — Customs; Excise; Taxes; Stamp Duties; Pamphlets and Newspapers;
Insurance; Pawnbrokers; &c.
XXVI. — (8.) — Charitable and Public Institutions; Tolls and Customs in Ireland.
XXVII. — (9.) — Trade; Imports and Exports; Holyhead Roads; Droits of the Crown.
XXVIII. — (10.) — East India Company and East Indies.
XXIX. — (11.) — Miscellaneous.
XXX. — (12.) — Miscellaneous.
XXXI. — (13.) — Miscellaneous.
-

7.—STATE PAPERS, presented by Command of HIS MAJESTY :
Two Volumes.

- XXXII. — (1.) —The Affairs of Greece
XXXIII. — (2.) —Slaves in the Colonies, and Slave Trade.
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WITH

8.—A NUMERICAL LIST OF THE PRINTED PAPERS;

AND,

9.—A GENERAL ALPHABETICAL INDEX TO THE WHOLE.

B I L L S,
P U B L I C:

T H R E E V O L U M E S.

—(1.)—

ADMINISTRATION OF JUSTICE;
LOCAL JURISDICTION; COMMON LAW FEES;
SIGN MANUAL;
CHURCHES; TITHES; ECCLESIASTICAL LEASING;
FELONY; FORGERY; BANKRUPTCY;
MADRAS REGISTRAR; EAST RETFORD ELECTION;
LUNATICS;
&c.

Session

5 February — 23 July 1830.

VOL. I.

1830.

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B I L L S :

1830.

THREE VOLUMES:—CONTENTS OF THE FIRST VOLUME.

N.B.—*THE* Figures at the beginning of the line, correspond with the N^o at the foot of each Bill; and the Figures at the end of the line, refer to the MS. Paging in the Volumes arranged for The House of Commons.

| No. | | MS. paging. |
|------|---|----------------|
| | Administration of Justice : | |
| 171. | Bill for the more effectual Administration of Justice in <i>England</i> and <i>Wales</i> - | 1 |
| 348. | Bill [as amended by the Committee] - - - - - | 9 |
| 434. | Bill [as amended on Re-commitment] - - - - - | 19 |
| 463. | Bill [as amended on Second Re-commitment] - - - - - | 33 |
| 508. | Bill [as amended on Third Re-commitment] - - - - - | 47 |
| 465. | Bill for further facilitating the Administration of Justice in Suits and other Proceedings in Equity - - - - - | 61 |
| 327. | Bill to facilitate the Administration of Justice in the Court of Quarter Sessions in the city of <i>Dublin</i> - - - - - | 65 |
| | Chancery : | |
| 487. | Bill to regulate the office of Register and Keeper of the Register and Registers of the High Court of Chancery - - - - - | 69 |
| 488. | Bill to regulate the Salaries and Emoluments of the Masters in Ordinary of the High Court of Chancery, and the Clerks employed in the Offices of the said Masters - - - - - | 77 |
| | Contempts : | |
| 37. | Bill for altering and amending the Law regarding Commitments by Courts of Equity for Contempts, and the taking Bills <i>pro confesso</i> - - - - - | 85 |
| 77. | Bill [as amended by the Committee] - - - - - | 103 |
| | Courts of Justice :—Local Jurisdiction : | |
| 568. | Bill for establishing Courts of Local Jurisdiction [as amended by the Committee] - - - - - | 123 |
| 569. | Abstract of Bill for establishing Courts of Local Jurisdiction [as amended by the Committee] - - - - - | 167 |
| | Common Law Fees : | |
| 359. | Bill for regulating the receipt and future appropriation of Fees and Emoluments receivable by Officers of the superior Courts of Common Law - - - - - | 173 |
| 551. | Bill [as amended by the Committee] - - - - - | 179 |
| | Court of Session :—Trial by Jury : | |
| 218. | Bill for uniting the benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments of <i>Scotland</i> - | 187 |
| 384. | Bill [as amended by the Committee] - - - - - | 199 |
| 536. | Bill [as amended on Re-commitment] - - - - - | 211 |
| | Illusory Appointments : | |
| 33. | Bill to alter and amend the Law relating to Illusory Appointments - | 225 |

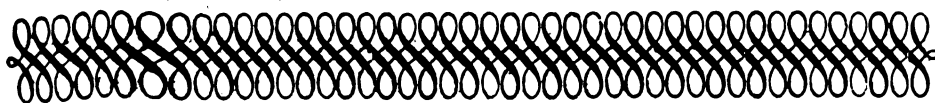
| No. | | MS. paging. |
|------|--|----------------|
| | Infant Trustees : | |
| 35. | Bill for amending the Laws respecting Conveyances and Transfers of Estates and Funds vested in Trustees and Mortgagees, and for enabling Courts of Equity to give effect to their Decrees and Orders in certain cases | 227 |
| 74. | Bill [as amended by the Committee] | 239 |
| 34. | Bill for consolidating and amending the Laws relating to Property belonging to Infants, Females Covert, Idiots, Lunatics, and Persons of unsound Mind | 251 |
| 75. | Bill [as amended by the Committee] | 269 |
| | Residues : | |
| 338. | Bill for making better provision for the disposal of the undisposed-of Residues of the Effects of Testators | 287 |
| | Sign Manual : | |
| 461. | Bill to enable His Majesty to appoint certain Persons to affix His Majesty's Royal Signature to Instruments requiring such Signature | 289 |
| | Libel : | |
| 441. | Bill to repeal so much of an Act of the Sixtieth Year of his late Majesty King George the Third, for the more effectual prevention and punishment of blasphemous and seditious Libels, as relates to the sentence of Banishment for the second Offence, and to provide some further remedy against the abuse of publishing Libels | 293 |
| | Churches : | |
| 464. | Bill to amend and render more effectual the Acts for the building of additional Churches in populous Parishes | 295 |
| 431. | Bill for endowing the Parish Church of <i>Newborough</i> , in the County of <i>Northampton</i> , and three Chapels, called <i>Portland Chapel</i> , <i>Oxford Chapel</i> , and <i>Welbeck Chapel</i> , situate in the Parish of <i>Saint Mary-le-bone</i> , in the County of <i>Middlesex</i> , and also a Chapel erected on <i>Sunk Island</i> , in the River <i>Humber</i> | 309 |
| 502. | Bill [as amended by the Committee] | 325 |
| | Ecclesiastical Leasing : | |
| 61. | Bill to amend the Laws respecting the Leasing Powers of Bishops and Ecclesiastical Corporations in Ireland | 343 |
| 261. | Bill [as amended by the Committee] | 351 |
| | Tithes : | |
| 10. | Bill to enable Rectors, Vicars, and other Incumbents of Ecclesiastical Benefices and Livings in <i>England</i> and <i>Wales</i> , to exchange their Tithes for Corn Rents, by Agreement with the Owners of Land | 359 |
| | Demise of the Crown : | |
| 388. | Bill to abolish all Fees and Stamp Duties chargeable on the renewal of all Appointments, Commissions, Grants, Pensions, and Patents, consequent on the Demise of the Crown | 397 |
| 416. | Bill [as amended by the Committee] | 399 |
| 571. | Bill [with the amendments made by The Lords] | 401 |
| | Criminal Trials : | |
| 391. | Bill to amend an Act passed in the Ninth Year of His present Majesty, to facilitate Criminal Trials in <i>Scotland</i> , and to grant further facilities in regard to such Trials, and to abridge the period now required between the pronouncing of Sentence and execution thereof, in cases importing a Capital Punishment | 405 |
| 489. | Bill [as amended by the Committee] | 409 |
| | Felony : | |
| 538. | Bill to explain and amend an Act of the Fifty-fifth year of King George the Third, for the payment of Costs and Charges to Prosecutors and Witnesses in cases of Felony in <i>Ireland</i> | 415 |

BILLS; 1830.

| No. | | MS. page. |
|------|--|--------------|
| | Forgery : | |
| 217. | Bill for reducing into one Act all such Forgeries as shall henceforth be punished with Death, and for otherwise amending the Laws relative to Forgery - - - - - | 417 |
| 666. | Bill [with the amendments made by The Lords] - - - - - | 435 |
| | Juries : | |
| 108. | Bill for consolidating and amending the Laws relative to Jurors and Juries in <i>Ireland</i> - - - - - | 455 |
| | Transportation : | |
| 512. | Bill to amend an Act passed in the Fifth year of His present Majesty for the Transportation of Offenders from <i>Great Britain</i> , and for punishing Offences committed by Transports kept to labour in the Colonies - - | 485 |
| | Bankruptcy : | |
| 346. | Bill to supply an omission in an Act of the Sixth year of His present Majesty, for amending the Laws relating to Bankrupts - - - - - | 491 |
| | Madras Registrar : | |
| 258. | Bill for the relief of the Representatives of Persons who have died intestate in the Presidency of <i>Madras</i> , in the <i>East Indies</i> , and for the relief of the Suitors of the Supreme Court of Judicature at <i>Madras</i> aforesaid - - | 493 |
| 623. | Bill [as amended by the Committee] - - - - - | 503 |
| | East Retford Election : | |
| 29. | Bill to prevent Bribery and Corruption in the Election of Burgesses to serve in Parliament for the Borough of <i>East Retford</i> - - - - - | 513 |
| | Lunatics : | |
| 19. | Bill to authorize the transfer of certain Balances in the hands of the Clerks of the Peace of the several Counties of <i>England</i> and <i>Wales</i> , on account of Lunatic Asylums Licenses - - - - - | 517 |
| 100. | Bill to diminish, in certain cases, the inconvenience and expense of Commissions in the nature of <i>Writs de Lunatico Inquirendo</i> - - - - - | 519 |

(continued in Vol. II.)

22 March 1830.



A

B I L L

For the more effectual Administration of Justice in England and Wales.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

WH ~~HEREAS~~ the appointment of an additional Puisne Judge to each of His Majesty's Superior Courts of Common Law would cause much greater facility and despatch of Business therein: AND whereas it is expedient to put an end to the separate Jurisdiction for the County Palatine of Chester and the Principality of Wales; and to make more effectual provision for the Administration of Justice in England and Wales; ~~BE it therefore Enacted~~, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT whenever His Majesty shall be pleased to appoint an additional Puisne Judge to each of His Courts of the King's Bench, the Common Pleas, and the Exchequer, the Puisne Judges of each Court shall sit by rotation in each Term, or otherwise, as they shall agree amongst themselves, so that no greater number than *Three* of them shall sit at the same time in banc for the transaction of business in Term.

Preamble:

Puisne Judges
to sit in rota-
tion;

And be it further Enacted, That every Judge of the said Courts, to whatever Court he may belong, shall be and he is hereby accordingly authorized to sit in London and Middlesex, for the trial of Issues arising in any of the said Courts, and to transact such business at chambers or elsewhere, relating to matters depending in any of the said Courts, and over which the said Courts have a common jurisdiction, as may, according to the course and practice of the Court, be transacted by a single Judge.

Additional
Judges may
sit in London
and West-
minster.

Repeal of
Acts.

And be it further Enacted, That a certain Act, passed in the third year of His present Majesty's reign, intituled, "An Act to repeal
" an Act of the first and second years of His present Majesty, for
" facilitating the despatch of Business in the Court of King's Bench,
" and to make further provision in lieu thereof," shall be and the
same is hereby Repealed, except so far as it repeals the said former
Act.

5

Terms
altered.

And be it further Enacted, That from and after the
Michaelmas Term shall begin on the *second*,
and end on the *twenty-fifth day of November*; Hilary Term shall
begin on the *eighth*, and end on the *twenty-eighth day of January*;
Easter Term shall begin on the *fifteenth day of April*, and end on
the *eighth day of May*; and Trinity Term shall begin on the
twenty-second day of May, and end on the *twelfth day of June*;
and that the Essoign and Return days of each Term shall be fixed
with the same relation to the commencement of each Term as they
now stand, and shall be distinguished by the day of the Term on
which they respectively fall, the Monday being in all cases substituted
for the Sunday, when it shall happen that the day would fall on
Sunday, except always that in Easter Term there shall be but
four Returns instead of five, the last being omitted; provided
that if the whole or any number of the days intervening between the
Monday before and the Wednesday next after Easter day shall fall
within Easter Term, no business of the Term, excepting such as may
be done before a single Judge at chambers, shall be transacted on
Good Friday, or on the Saturday, Monday or Tuesday following,
but the Term shall in such case be prolonged and continue for such
number of days of business as shall be equal to the number of the days
before mentioned, exclusive of Easter day falling within the Term,
and the commencement of the ensuing Trinity Term shall in such
case be postponed, and its continuance prolonged for an equal
number of days of business.

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That not more than *Twenty-four* days, exclusive of Sundays,
after Michaelmas, Hilary, and Trinity Terms, nor more than
Six days, exclusive of Sundays, after Easter Term, to be
reckoned consecutively immediately after each Term re-
spectively, shall be appropriated to Sittings in London and
Middlesex for the trial of Issues of fact arising in any of
the said Courts; provided that if any trial at bar shall be
directed by any of the said Courts, it shall be competent to
the Judges of such Court to appoint such day or days for
the trial thereof as they shall think fit; and the time so
appointed, if in vacation, shall for the purpose of such trial
be deemed and taken to be a part of the preceding Term.

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That

That writs of error from any of the said Courts shall hereafter be made returnable before the Judges or Judges and Barons, as the case may be, of the other two Courts in the Exchequer Chamber, whereupon a transcript of the record only shall be annexed to the return of the writ; and the Court of Error, after errors are duly assigned and issue in error joined, shall in Term time review the proceedings, and give judgment as they shall be advised thereon; and such proceedings and judgment, as altered or affirmed, shall be entered on the original record, and such further proceeding as may be necessary thereon shall be awarded by the Court in which the original record remains; from which judgment in error no writ of error shall lie or be had, except the same be made returnable in the High Court of Parliament.

15 And be it further Enacted, That the Act of the twenty-seventh year of the reign of Queen Elizabeth, intituled, "An Act for redress
"of erroneous Judgments in the Court commonly called the King's
"Bench," shall be and the same is hereby repealed, except as
to such proceedings as may now be depending upon any writ of
20 error which shall have issued before this Act shall be in force.

27 Eliz. c. 8.
Repealed, and
other Rules
made for re-
gulation of
Court of
King's Bench.

That upon all trials for misdemeanors upon any record of the Court of King's Bench, judgment shall be pronounced during the sittings or assizes by the Judge before whom the verdict shall be taken, as in other cases, excepting only
25 where the prosecution shall be by information filed by leave of the Court of King's Bench, or such cases of informations filed by His Majesty's Attorney General wherein the Attorney General shall pray that the judgment may be postponed, and the judgment so pronounced shall be in-
30 dorsed upon the record of Nisi Prius, and afterwards entered upon the record in Court as the judgment of the Court, unless the Court shall, within Six days after the commence-
ment of the ensuing Term, grant a rule to show cause why a new trial should not be had or the judgment amended;
35 and it shall be lawful for the Judge before whom the trial shall be had either to issue an immediate order or warrant for committing the defendant in execution, or to respite the execution of the judgment, upon such terms as he shall think fit, until the *Sixth* day of the ensuing Term:

40 That from and after the *passing of this Act*, no person shall be discharged as an insolvent debtor, except by the authority of the Court for the discharge of Insolvent Debtors, according to the form of the Acts or Act for establishing that Court, excepting only such prisoners for debt who before the *passing*

of this Act shall have duly commenced proceedings for their discharge in any other manner :

That any barrister who shall have been engaged on the trial of an issue from the Court of Common Pleas shall be heard in the said Court in Term time, upon any question there moved for a new trial, or for any alteration of the verdict thereupon, any law or usage to the contrary notwithstanding :

That all persons admitted or admissible to practise as attornies in the Courts of King's Bench and Common Pleas, and having their offices for carrying on business within the cities of London or Westminster or the county of Middlesex, shall be admissible in like manner as attornies of the Court of Exchequer, and be admitted and allowed to practise there as such, upon application to the Barons of that Court in the usual manner; and that such persons, having their offices of business elsewhere, shall have the like privilege at the expiration of *Ten* years from the passing of this Act, without being obliged to employ any clerk in Court or other attorney of the Court of Exchequer, any law or usage to the contrary notwithstanding.

Judges may
make Rules
for regulation
of Courts.

And be it further Enacted, That in all cases relating to the practice of any of the Courts of King's Bench, Common Pleas, or Exchequer, in matters over which the said Courts have a common jurisdiction, it shall be lawful for the Judges of the said Courts jointly, or any *Eight* or more of them, including the Chiefs of each Court, to make general rules and orders for regulating the proceedings of all the said Courts; which said rules and orders so made shall be observed in all the said Courts; and no general rule or order respecting such matters shall be made in any manner, except as aforesaid.

That no person shall be liable to be arrested for any debt or demand under the sum or value of *One hundred pounds*, except upon the special order of a Judge of one of the superior Courts, to be made upon sufficient cause shown to him by affidavit :

That bail shall be justified before a Judge in chambers :

That from and after the *passing of this Act*, His Majesty's writ shall be obeyed, and the jurisdiction of His Majesty's Courts of King's Bench, Common Pleas, and Exchequer, and of the several Judges and Barons thereof respectively, shall extend and be exercised over and within the county and city of Chester, and the several counties in Wales, in like manner to all intents and purposes respectively as in and over the counties of England, not being counties palatine :

That

That all the power authority and jurisdiction of His Majesty's Judges and Courts of Grand Session of the county and city of Chester and the principality of Wales, both in law and in equity, shall cease and determine, except so far as relates to suits depending at the *passing of this Act*, which suits shall, from and after the *passing of this Act*, be transferred to His Majesty's Court of Exchequer, there to be dealt with and decided according to the practice of that Court or of the Court of Grand Session from whence the same shall be transferred, according to the discretion of the Court of Exchequer.

And be it further Enacted, That all persons who on or before the day of _____ shall have been admitted as attornies and shall then be practising in any of the Courts of Grand Session in the county palatine of Chester or in Wales, shall be entitled, upon the payment of *one shilling*, to have their names entered upon a roll to be kept for that purpose in each of the superior Courts of Westminster, and thereupon be allowed to practise in such Courts in all actions and suits against persons residing, at the commencement of the suit, within the county of Chester or principality of Wales; and that all persons now actually serving as clerks to such attornies under articles, and who would otherwise be entitled to be admitted as attornies of the said Courts of Grand Sessions, may on or before the day of _____ be admitted as attornies of the said Courts at Westminster, for the purpose of practising there, in the like matters only, without payment of any greater duty than would be now payable by law upon their admission as attornies of such Courts of Grand Sessions respectively.

Attornies of Courts of Grand Session allowed to practise, on payment of certain Fees.

And be it further Enacted, That all attornies now actually admitted and practising in any of the said Courts of Grand Sessions may be admitted as attornies of the said Courts at Westminster, in like manner as is now or may be hereafter prescribed for the admission of other persons as attornies therein, upon payment of such sum for duty, in addition to the sum already paid by them in that behalf, as shall, together with such latter sum, amount to the full duty required upon admission of attornies in the said Courts at Westminster; and that all persons now actually serving under articles as clerks to such attornies of any of the said Courts of Grand Sessions, may at the expiration of their respective times of service be admitted as attornies of the said Courts at Westminster, in like manner, and upon payment of the like duty, as if they had served under articles as clerks to attornies of the said last-mentioned Courts.

Attornies of Grand Session may be admitted as Attornies at Westminster.

That from and after _____ Assizes shall be held for the trial and despatch of all matters, criminal and civil,

civil, arising within the county and city of Chester, and the several counties and county towns in the principality of Wales, in like manner as in the counties of England, under and by virtue of commissions of Assize and of Oyer and Terminer and Gaol Delivery to be issued by His Majesty under the Great Seal, in manner and form, and for such counties and places either separately or conjointly, as His Majesty shall by any Order in Council appoint and direct: Provided always, That it shall be lawful for His Majesty, by advice and order of His Council, at any time to appoint such changes to be made in the place of holding the assizes for any such county or counties, or in the combinations of the several counties in Chester and Wales, as well as to combine any of the said counties with a county or counties in England, for the purpose aforesaid, as shall be found most expedient :

That one sheriff, to be named in any one of the counties combined by authority of any Order in Council issued by His Majesty by virtue of this Act, for the purposes of the Assizes, shall be sheriff for each of the said counties so combined, and shall have the authority of sheriff throughout each of the same, in like manner, and not otherwise, as the sheriff of each particular county hath heretofore lawfully had and exercised the same: Provided always, That he shall appoint a separate undersheriff in each county for the separate business thereof, as hath heretofore been accustomed; and provided also, that in corporate towns having exclusive jurisdictions, the sheriff shall send the writs or process, or his precept thereupon, to the sheriffs or bailiffs of such corporations, without prejudice to their right of executing the same as heretofore; and such corporation, sheriffs or bailiffs shall, after due receipt of such writs, process or precepts, in such cases be responsible to the Court, instead of the sheriff of the county, for any default in the execution thereof:

That the Grand and Petty Juries at the Assizes held for the several counties under one commission, shall be summoned indiscriminately, but in equal proportions as nearly as may be from each of such counties, or in such other proportion order and manner as the Judges of Assize may hereafter think fit, by their order in writing to the sheriff, to appoint, and shall have, when assembled at the assize town, the like power and authority in all respects whatever as the grand and petty juries of each separate county heretofore respectively lawfully had and exercised :

That

That for the purposes of trial and all other proceedings whatever which by any law or statute ought to be had in the county where the matter of such trial or proceeding, whether criminal or civil, arose, the Court and place where the Assizes shall be held under this statute for several different counties shall be deemed taken and described to be within the county wherein such matter arose ; and in like manner the gaol of the county within which such assize shall be held, shall, for the purpose of committing prisoners for trial or in execution, be deemed and taken to be within each of the said combined counties ; and the Justices of each county shall have power to commit prisoners for trial to the said gaol, and to take all recognizances relating to matters of whatever kind to be had or done at the Assizes ; provided that the Justices of each of such counties may, if they shall so think fit, commit prisoners to the gaols situate within their respective counties for trial, in which case the gaoler of such gaol shall cause such prisoners as may be so committed to be carried to the assize town in safe custody for trial, and shall, under the direction of the Justices of the county in which his gaol is situated, provide proper means for safely conveying thereto any prisoner who shall be sentenced by the Judge at the Assizes to be imprisoned in that gaol :

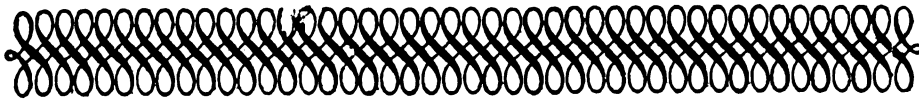
That the gaolers of the different county gaols in each county shall attend the Assizes held for the said county ; with the proper calendars of the prisoners in each gaol for the time being, to be verified, if required, on oath, before one of the Judges of Assize ; and every officer and other person whose duty it is to attend upon the Judges at the Assize, shall be bound as heretofore to attend the Assizes held for the county to which his duty or office shall be attached, and shall there be bound and entitled to discharge the same duties in like manner as if the Assizes had been held within the said county :

That the gaoler of the county gaol of each county within which Assizes shall be holden for several counties, shall keep a separate account of the expense of maintaining the prisoners committed to his custody, whether for trial or otherwise, in respect of each separate county, which accounts shall be laid before the Justices of each county at their several quarter sessions, and being duly examined and verified, shall be paid respectively out of the rates of each county by an order of the Justices in sessions upon the treasurer of each county respectively, so that no county may bear the expense of maintaining the prisoners of another county : Provided

always, That if, by reason of the accumulation of prisoners in the said gaol, it shall be found necessary at any time, by the consent of the Justices of the several counties, or by the examination and order of the Judges of Assize, to enlarge the same gaol, the expense of so enlarging the same shall 5 be defrayed out of the county rates of the several combined counties, each contributing to the whole sum in such proportion as the Justices of the said counties shall agree, or, in case of a difference of opinion amongst them, then as the Judges of Assize shall direct : 10

That the additional expense which may be found necessary in providing proper courts and accommodation for the Judges at the Assizes, shall be borne by the several combined counties in such proportion as the Judges of Assize shall determine, reference being had to any advantages which may result to the county within which the Assizes shall be held by reason thereof.

3 May 1830.



A

B I L L

[AS AMENDED BY THE COMMITTEE]

For the more effectual Administration of Justice in *England* and *Wales*.

N. B.—*The Clauses marked (A. to D.) were added by the Committee.*

- W** ~~H E R E A S~~ the appointment of an additional Puisne Judge to each of His Majesty's Superior Courts of Common Law would cause much greater facility and despatch of Business therein: AND whereas it is expedient to put an end to the separate
5 Jurisdiction for the County Palatine of *Chester* and the Principality of *Wales*; and to make more effectual provision for the Administration of Justice in *England* and *Wales*; ~~B E~~ it ~~therefore~~ Enacted, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons,
10 in this present Parliament assembled, and by the Authority of the same, THAT whenever His Majesty shall be pleased to appoint an additional Puisne Judge to each of His Courts of the King's Bench, the Common Pleas, and the Exchequer, the Puisne Judges of each Court shall sit by rotation in each Term, or otherwise, as they shall
15 agree amongst themselves, so that no greater number than Three of them shall sit at the same time in banc for the transaction of business in Term.

Preamble

Puisne Judges to sit in rotation.

- And be it further Enacted, That every Judge of the said Courts, to whatever Court he may belong, shall be and he is hereby accord-
20 ingly authorized to sit in *London* and *Middlesex*, for the trial of Issues arising in any of the said Courts, and to transact such business at chambers or elsewhere, depending in any of the said Courts, as relates to matters over which the said Courts have a common jurisdiction, and as may, according to the course and practice of the Court, be transacted by a single Judge.

Additional Judges may sit in *London* and *Westminster*.

Repeal of
Act 3 Geo. 4.

And be it further Enacted, That a certain Act, passed in the third year of His present Majesty's reign, intituled, "An Act to repeal
" an Act of the first and second years of His present Majesty, for
" facilitating the despatch of Business in the Court of King's Bench,
" and to make further provision in lieu thereof," shall be and the same
is hereby Repealed, except so far as it repeals the said former Act.

5

Terms
altered.

And be it further Enacted, That from and after the
Michaelmas Term shall begin on the second,
and end on the twenty-fifth day of November; Hilary Term shall
begin on the eleventh, and end on the thirty-first day of January; 10
Easter Term shall begin on the fifteenth day of April, and end on
the eighth day of May; and Trinity Term shall begin on the
twenty-second day of May, and end on the twelfth day of June;
and that the Essoign and Return days of each Term shall be fixed
by the Judges until further provision be made by Parliament; 15
with the same relation to the commencement of each Term as they
now bear, and shall be distinguished by the day of the Term on
which they respectively fall, the Monday being in all cases substituted
for the Sunday, when it shall happen that the day would fall on
Sunday, except always that in Easter Term there shall be but 20
four Returns instead of five, the last being omitted; provided
that if the whole or any number of the days intervening between the
Thursday before and the Wednesday next after Easter day shall fall
within Easter Term, no business of the Term, excepting such as may
be done before a single Judge at chambers, shall be transacted on 25
Good Friday, or on the Saturday, Monday or Tuesday following,
but the Term shall in such case be prolonged and continue for such
number of days of business as shall be equal to the number of the days
before mentioned, exclusive of Easter day falling within the Term,
and the commencement of the ensuing Trinity Term shall in such 30
case be postponed, and its continuance prolonged for an equal
number of days of business.

Limiting time
for Sittings.

And be it further Enacted, That not more than Twenty-four
days, exclusive of Sundays, after Michaelmas, Hilary, and Trinity
Terms, nor more than Six days, exclusive of Sundays, after Easter 35
Term, to be reckoned consecutively immediately after each Term
respectively, shall be appropriated to Sittings in *London* and
and *Middlesex* for the trial of Issues of fact arising in any of the
said Courts; provided that if any trial at bar shall be directed by
any of the said Courts, it shall be competent to the Judges of such 40
Court to appoint such day or days for the trial thereof as they
shall think fit; and the time so appointed, if in vacation, shall
for the purpose of such trial be deemed and taken to be a part of the
preceding Term.

And

And be it further Enacted, That writs of error upon any judgment given by any of the said Courts shall hereafter be made returnable only before the Judges or Judges and Barons, as the case may be, of the other two Courts in the Exchequer Chamber, where-
 5 upon a transcript of the record only shall be annexed to the return of the writ; and the Court of Error, after errors are duly assigned and issue in error joined, shall, at such time as the Judges shall appoint either in Term or vacation, review the proceedings, and give judgment as they shall be advised thereon; and such pro-
 10 ceedings and judgment, as altered or affirmed, shall be entered on the original record, and such further proceeding as may be necessary thereon shall be awarded by the Court in which the original record remains; from which judgment in error no writ of error shall lie or be had, except the same be made returnable in the High
 15 Court of Parliament.

Regulation as
to Writs of
Error.

And be it further Enacted, That the Act of the twenty-seventh year of the reign of Queen *Elizabeth*, intituled, "An Act for redress
 "of erroneous Judgments in the Court commonly called the King's
 "Bench," shall be and the same is hereby repealed, except as
 20 to such proceedings as may now be depending upon any writ of error which shall have issued before this Act shall be in force.

27 Eliz. c. 8.
Repealed, and
other Rules
made for re-
gulation of
Court of
King's Bench.

And be it further Enacted, That upon all trials for felonies or misdemeanors upon any record of the Court of King's Bench, judgment shall be pronounced during the sittings or assizes by the Judge
 25 before whom the verdict shall be taken, excepting only where the prosecution shall be by information filed by leave of the Court of King's Bench, or such cases of informations filed by His Majesty's Attorney General wherein the Attorney General shall pray that the judgment may be postponed, and the judgment so pronounced shall
 30 be indorsed upon the record of *Nisi Prius*, and afterwards entered upon the record in Court as the judgment of the Court, unless the Court shall, within Six days after the commencement of the ensuing Term, grant a rule to show cause why a new trial should not be had or the judgment amended; and it shall be lawful for
 35 the Judge before whom the trial shall be had either to issue an immediate order or warrant for committing the defendant in execution, or to respite the execution of the judgment, upon such terms as he shall think fit, until the Sixth day of the ensuing Term.

Judgments
to be pro-
nounced in
all trials for
felonies upon
record during
sittings, ex-
cept as herein
is excepted.

And be it further Enacted, That any barrister who shall have been
 40 engaged on the trial of an issue from the Court of Common Pleas shall be heard in the said Court in Term time, upon any question there moved for a new trial, or for any alteration of the verdict thereupon; any law or usage to the contrary notwithstanding.

Barristers en-
gaged on trial
of issues from
Common
Pleas to be
heard in Term
time.

Attornies of
King's Bench
or Common
Pleas may
practice in
Exchequer in
like manner.

And be it further Enacted, That all persons admitted or admissible to practise as attornies in the Courts of King's Bench and Common Pleas shall be admissible in like manner as attornies of the Court of Exchequer, and be admitted and allowed to practise there as such, upon application to the Barons of that Court, without being obliged to employ any clerk in Court in the capacity of attorney of the Court of Exchequer; any law or usage to the contrary notwithstanding.

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Judges may
make Rules
for regulation
of Courts.

And be it further Enacted, That in all cases relating to the practice of any of the Courts of King's Bench, Common Pleas, or Exchequer, in matters over which the said Courts have a common jurisdiction, it shall be lawful for the Judges of the said Courts jointly, or any Eight or more of them, including the Chiefs of each Court, to make general rules and orders for regulating the proceedings of all the said Courts; which said rules and orders so made shall be observed in all the said Courts; and no general rule or order respecting such matters shall be made in any manner, except as aforesaid.

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No person to
be arrested
upon Mesne
Process under
£. 100.

And be it Enacted, That no person shall be liable to be arrested upon mesne process, for any debt or demand under the sum or value of One hundred pounds, contracted after the passing of this Act, except upon the special order of a Judge of one of the superior Courts, to be made upon sufficient cause shown to him by affidavit; provided that in case the defendant shall be possessed of any moveable goods and chattels which the Sheriff may seize, it shall be lawful for the creditor claiming any debt or demand not exceeding the sum aforesaid, upon affidavit thereof having been made and filed in like manner as in the case of affidavits to hold to bail, to sue out and obtain a writ of *distringas* for the amount of such debt or demand, whereupon it shall be lawful for the Sheriff to distrain the goods and chattels of the defendant to an amount not exceeding the amount of the debt or demand claimed, and to retain possession of the same until the defendant shall have given a bond, with sufficient sureties, to appear and put in bail above at the return of the writ, which bond shall be deemed a bail bond, and be assignable and available as such according to the same rules as are now applicable to bail bonds: Provided also, That if bail above shall not be put in and justified, it shall be lawful for the Court, or a Judge at chambers, to direct the goods to be sold, and the amount of such sale paid to the plaintiff in part satisfaction of his demand.

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CLAUSE (A)
Interest upon
debts due re-
coverable.

And be it further Enacted, That in all actions for the recovery of any debt or demand contracted after the passing of this Act, it shall be lawful for the plaintiff to recover, in addition to the debt or demand,

demand, lawful interest upon the same, to be computed from such time as the same was justly payable and was duly demanded by the creditor in writing.

And be it further Enacted, That no action of debt or assumpsit shall be barred by any plea of the Statute of Limitations passed in the twenty-first year of his Majesty King *James* the First, if it shall appear in evidence that the defendant hath not been within the realm for the full term of _____ years, either continuously or at different intervals between the time when the demand arose and the commencement of the action.

CLAUSE (B.)
Plea of Statute of Limitations not allowed if defendant out of the country _____ years.

And be it further Enacted, That bail shall be justified before a Judge in chambers.

Justification of bail before Judge in chambers.

And be it further Enacted, That from and after the passing of this Act, His Majesty's writ shall be obeyed, and the jurisdiction of His Majesty's Courts of King's Bench, Common Pleas, and Exchequer, and of the several Judges and Barons thereof respectively, shall extend and be exercised over and within the county and city of *Chester*, and the several counties in *Wales*, in like manner to all intents and purposes respectively as in and over the counties of *England*, not being counties palatine.

Jurisdiction of Courts at Westminster extended to Counties Palatine, &c.

And be it further Enacted, That all the power, authority and jurisdiction of His Majesty's Court of Session of the said county palatine of *Chester*, and of the Judges thereof, and of His Court of Exchequer of the said county palatine, and of the Chamberlain and Vice Chamberlain thereof, and also of His Judges and Courts of Great Sessions, both in law and equity, in the principality of *Wales*, shall cease and determine, except so far as relates to suits depending at the passing of this Act, which suits, if in equity, shall, from and after the passing of this Act, be transferred to His Majesty's Court of Chancery or Court of Exchequer, as the plaintiff shall think fit, and if in law, to the Court of Exchequer, there to be dealt with and decided according to the practice of those Courts respectively, or of the Court from whence the same shall be transferred, according to the discretion of the Court to which the same shall be transferred.

CLAUSE (C.)
Present jurisdiction of Counties Palatine and Principality of Wales to cease.

Provided, and be it also Enacted, That nothing in this Act contained shall be construed to abridge the jurisdiction or rights now exercised by the Corporation of *Chester* in the courts of the county of the city of *Chester*, save and except that such writs of error or false judgment as may now by any charter or usage of the said Corporation be brought upon the judgments of the said Courts,

CLAUSE (D.)
Not to extend to rights of Corporation of *Chester*.

or any of them, before any of the Courts abolished by this Act shall hereafter be issued, as in other cases of writs of error from inferior Courts, and be returnable into His Majesty's Court of King's Bench:

Attornies of
Courts of
Great Sessions
allowed to
practise, on
payment of
certain Fees.

And be it further Enacted, That all persons who on or before the
day of shall have 5
been admitted as attornies and shall then be practising in any of
the Courts of Great Sessions in the county palatine of *Chester* or in
Wales, shall be entitled, upon the payment of one shilling, to have
their names entered upon a roll to be kept for that purpose in each
of the superior Courts of *Westminster*, and thereupon be allowed to 10
practise in such Courts in all actions and suits against persons residing,
at the commencement of the suit, within the county of *Chester* or prin-
cipality of *Wales*; and that all persons having served or now actually
serving as clerks to such attornies under articles, and who would other-
wise be entitled to be admitted as attornies of the said Courts of Great 15
Sessions, may on or before the day of
be admitted as attornies of the said Courts at *Westminster*, for the
purpose of practising there, in the like matters only, without pay-
ment of any greater duty than would be now payable by law upon
their admission as attornies of such Courts of Great Sessions re- 20
spectively.

Attornies of
Great Ses-
sions may be
admitted as
Attornies at
Westminster.

And be it further Enacted, That all attornies now actually ad-
mitted and practising in any of the said Courts of Great Sessions
may be admitted as attornies of the said Courts at *Westminster*, 25
in like manner as is now or may be hereafter prescribed for the
admission of other persons as attornies therein, upon payment of
such sum for duty, in addition to the sum already paid by them in
that behalf, as shall, together with such latter sum, amount to the
full duty required upon admission of attornies in the said Courts at
Westminster; and that all persons having served or now actually ser- 30
ving under articles as clerks to such attornies of any of the said Courts
of Grand Sessions, may at the expiration of their respective times of
service be admitted as attornies of the said Courts at *Westminster*, in
like manner, and upon payment of the like duty, as if they had
served under articles as clerks to attornies of the last-mentioned 35
Courts.

Assizes to be
held in Ches-
ter and Wales.

And be it further Enacted, That from and after
Assizes shall be held for the trial and despatch of all matters,
criminal and civil, within the county and city of *Chester*, and the
several counties and county towns in the principality of *Wales*, 40
in like manner as in the counties of *England*, under and by virtue
of commissions of Assize and of Oyer and Terminer and Gaol Deli-
very to be issued by His Majesty under the Great Seal, in manner
and

and form, and for such counties and places either separately or jointly, as His Majesty shall by any Order in Council appoint and direct : Provided always, That it shall be lawful for His Majesty, by order of His Majesty in Council, at any time to appoint such changes to be made in the place of holding the assizes for any such county or counties, or in the combinations of the several counties in *Chester* and *Wales*, as well as to combine any of the said counties with a county or counties in *England*, for the purpose aforesaid, as shall be found most expedient.

Counties in
Chester and
Wales may be
combined.

- 10 And be it further Enacted, That one sheriff, to be named in any one of the counties combined by authority of any Order in Council issued by His Majesty by virtue of this Act, for the purposes of the Assizes, shall be sheriff for each of the said counties so combined, and shall have the authority of sheriff throughout each of the same,
- 15 in like manner, and not otherwise, as the sheriff of each particular county hath heretofore lawfully had and exercised the same : Provided always, That he shall appoint a separate undersheriff in each county for the separate business thereof, as hath heretofore been accustomed ; and provided also, that in corporate towns having exclusive jurisdictions, the sheriff shall send the writs or process, or his precept thereupon, to the sheriffs or bailiffs of such corporations, without prejudice to their right of executing the same as heretofore ; and such corporation, sheriffs or bailiffs shall, after due receipt of such writs, process or precepts, in such cases be responsible to
- 20 the Court, instead of the sheriff of the county, for any default in the execution thereof.
- 25

One sheriff to
be named in
one county
for Assizes,
to have authority
throughout
counties
combined.

- And be it further Enacted, That the Grand and Petty Juries at the Assizes held for the several counties under one commission, shall be summoned indiscriminately, but in equal proportions as nearly
- 30 as may be from each of such counties, or in such other proportion order and manner as the Judges of Assize may hereafter think fit, by their order in writing to the sheriff, to appoint, and shall have, when assembled at the assize town, the like power and authority in all respects whatever as the grand and petty juries of each separate
- 35 county heretofore respectively lawfully had and exercised.

Regulation as
to Juries in
several counties
under one
commission.

- And be it further Enacted, That for the purposes of trial and all other proceedings whatever which by any law or statute ought to be had in the county where the matter of such trial or proceeding, whether criminal or civil, arose, the Court and place where the
- 40 Assizes shall be held under this statute for several different counties shall be deemed taken and described to be within the county wherein such matter arose ; and in like manner the gaol of the county within

Court where
Assizes are
held under
this Act for
several counties,
to be deemed in the
county wherein
matter
arose.

which such assize shall be held, shall, for the purpose of committing prisoners for trial or in execution, be deemed and taken to be within each of the said combined counties; and the Justices of each county shall have power to commit prisoners for trial to the said gaol, and to take all recognizances relating to matters of whatever kind to be had or done at the Assizes; provided that the Justices of each of such counties may, if they shall so think fit, commit prisoners to the gaols situate within their respective counties for trial, in which case the gaoler of such gaol shall cause such prisoners as may be so committed to be carried to the assize town in safe custody for trial, and shall, under the direction of the Justices of the county in which his gaol is situated, provide proper means for safely conveying thereto any prisoner who shall be sentenced by the Judge at the Assizes to be imprisoned in that gaol.

Gaolers of different counties to attend where Assizes are held.

And be it further Enacted, That the gaolers of the different county gaols in each county shall attend the Assizes held for the said county, with the proper calendars of the prisoners in each gaol for the time being, to be verified, if required, on oath, before one of the Judges of Assize; and every officer and other person whose duty it is to attend upon the Judges at the Assize, shall be bound as heretofore to attend the Assizes held for the county to which his duty or office shall be attached, and shall there be bound and entitled to discharge the same duties in like manner as if the Assizes had been held within the said county.

Gaoler of each county to keep separate accounts.

And be it further Enacted, That the gaoler of the county gaol of each county within which Assizes shall be holden for several counties, shall keep a separate account of the expense of maintaining the prisoners committed to his custody, whether for trial or otherwise, in respect of each separate county, which accounts shall be laid before the Justices of each county at their several quarter sessions, and being duly examined and verified, shall be paid respectively out of the rates of each county by an order of the Justices in sessions upon the treasurer of each county respectively, so that no county may bear the expense of maintaining the prisoners of another county: Provided always, That if, by reason of the accumulation of prisoners in the said gaol, it shall be found necessary at any time, by the consent of the Justices of the several counties, or by the examination and order of the Judges of Assize, to enlarge the same gaol, the expense of so enlarging the same shall be defrayed out of the county rates of the several combined counties, each contributing to the whole sum in such proportion as the Justices of the said counties shall agree, or, in case of a difference of opinion amongst them, then as the Judges of Assize shall direct.

And

And be it further Enacted, That the additional expense which may be found necessary in providing proper courts and accommodation for the Judges at the Assizes, shall be borne by the several combined counties in such proportion as the Judges of Assize shall determine, reference being had to any advantages which may result to the county within which the Assizes shall be held by reason thereof.

Expenses incurred in holding Assizes to be borne equally among combined counties under this Act.

11 GEO. IV.—SESS. 1830.

A

B I L L

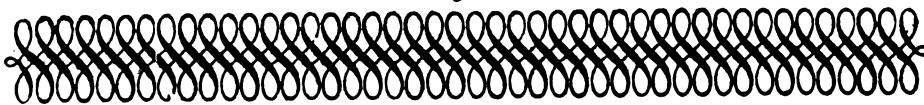
[AS AMENDED BY THE COMMITTEE]

For the more effectual Administration of Justice
in *England and Wales*.

Ordered, by The House of Commons, to be Printed,
3 May 1830.

20 May 1830.

13



A

B I L L

[AS AMENDED ON RE-COMMITMENT]

For the more effectual Administration of Justice
in *England* and *Wales*.

N. B. *The Clauses marked (A. to D.) were added by the Committee;
and Clauses marked (E. to S.) on the Re-commitment.*

WH ~~HEREAS~~ the appointment of an additional Puisne Judge Preamble.
to each of His Majesty's Superior Courts of Common Law

would cause much greater facility and despatch of Business therein:

AND whereas it is expedient to put an end to the separate Jurisdiction

5 for the County Palatine of *Chester* and the Principality of *Wales*; and

to make more effectual provision for the Administration of Justice in

England and *Wales*; ~~BE it therefore Enacted~~, by The KING's

most Excellent MAJESTY, by and with the advice and consent of the

Lords Spiritual and Temporal, and Commons, in this present Parlia-

10 ment assembled, and by the Authority of the same, THAT whenever

His Majesty shall be pleased to appoint an additional Puisne Judge to

each of His Courts of the King's Bench, the Common Pleas, and the

Exchequer, the Puisne Judges of each Court shall sit by rotation in each

Term, or otherwise, as they shall agree amongst themselves, so that no

15 greater number than Three of them shall sit at the same time in banc

for the transaction of business in Term.

Puisne Judges
to sit in rota-
tion.

And be it further Enacted, That from and after the appointment of
an additional Judge to each of the said Courts of King's Bench, Common
Pleas and Exchequer, there shall be issued and paid and payable out of
and charged upon the Consolidated Fund of the United Kingdom of *Great
Britain* and *Ireland* (after paying or reserving sufficient to pay all such
sums as have been directed by any former Act of Parliament to be paid ou

CLAUSE (E.)
Salaries to
additional
Judges.

of the same, but with preference to all other payments which shall hereafter be charged upon the same,) the sum of Five thousand pounds to each such additional Judge as he shall be so appointed, as and for a yearly salary, to be paid from time to time quarterly, free and clear from all taxes and deductions whatsoever, on the fifth day of January, the fifth 5 April, the fifth day of July, and the tenth day of October, by equal portions, the first payment to be made on the first of such days respectively as shall occur after the appointment of the Judge entitled to receive the same; and that if any person hereafter appointed to such office shall die or resign the same, the executor or administrator of the 10 person so dying, or the person so resigning, shall be entitled to receive such proportionable part of the salary aforesaid as shall have accrued during the time that such person shall have executed such office since the last payment, and that the successor of any such person so dying or resigning shall be entitled to receive such portion of the salary as 15 shall be accruing or shall accrue from the day of such death or resignation.

CLAUSE (F.)
Retirement
Allowances to
additional
Judges.

And be it further Enacted, That upon the resignation of any such additional Judge, it shall be lawful for His Majesty, by His letters patent under the great seal of *Great Britain*, to give and grant to the 20 person so resigning (under and subject to the same conditions limitations and restrictions as any annuity, on resignation, can now by law be granted to any other Judge of the same Court,) an annuity during his life not exceeding the sum of Three thousand five hundred pounds yearly, or such other sum as shall by any Act hereafter to be made, 25 provided for Judges resigning their offices, to be paid and payable out of and charged upon the Consolidated Fund aforesaid, free and clear of all taxes and deductions whatsoever, by even quarterly payments to be made respectively on the days aforesaid in each year.

Additional
Judges may
sit in London
and Westminster.

And be it further Enacted, That every Judge of the said Courts, to 30 whatever Court he may belong, shall be and he is hereby accordingly authorized to sit in *London* and *Middlesex*, for the trial of Issues arising in any of the said Courts, and to transact such business at chambers or elsewhere, depending in any of the said Courts, as relates to matters over which the said Courts have a common jurisdiction, and as may, 35 according to the course and practice of the Court, be transacted by a single Judge.

Repeal of
Act 3 G. IV.

And be it further Enacted, That a certain Act, passed in the third year of His present Majesty's reign, intituled, "An Act to repeal an " Act of the first and second years of His present Majesty, for facilitating the despatch of Business in the Court of King's Bench, and to " make further provision in lieu thereof," shall be and the same is hereby Repealed, except so far as it repeals the said former Act.

And

And be it further Enacted, That from and after the Terms altered.

Michaelmas Term shall begin on the second, and end on the twenty-fifth day of November; Hilary Term shall begin on the eleventh, and end on the thirty-first day of January; Easter
 5 Term shall begin on the fifteenth day of April, and end on the eighth day of May; and Trinity Term shall begin on the twenty-second day of May, and end on the twelfth day of June; and that the Essoign and Return days of each Term shall be fixed by the Judges until further
 10 provision be made by Parliament, with the same relation to the commencement of each Term as they now bear, and shall be distinguished by the day of the Term on which they respectively fall, the Monday being in all cases substituted for the Sunday, when it shall happen that the day would fall on Sunday, except always that in Easter Term there shall be but four Returns instead of five, the last being omitted;
 15 provided that if the whole or any number of the days intervening between the Thursday before and the Wednesday next after Easter day shall fall within Easter Term, no business of the Term, excepting such as may be done before a single Judge at chambers, shall be transacted on Good Friday, or on the Saturday, Monday or Tuesday following,
 20 but the Term shall in such case be prolonged and continue for such number of days of business as shall be equal to the number of the days before mentioned, exclusive of Easter day falling within the Term, and the commencement of the ensuing Trinity Term shall in such case be postponed, and its continuance prolonged for an equal number of days
 25 of business.

And be it further Enacted, That not more than Twenty-four days, exclusive of Sundays, after Michaelmas, Hilary, and Trinity Terms, nor more than Six days, exclusive of Sundays, after Easter Term, to be
 30 reckoned consecutively immediately after each Term respectively, shall be appropriated to Sittings in *London* and *Middlesex* for the trial of Issues of fact arising in any of the said Courts; provided that if any trial at bar shall be directed by any of the said Courts, it shall be competent to the Judges of such Court to appoint such day or days for the trial thereof as they shall think fit; and the time so appointed, if in
 35 vacation, shall for the purpose of such trial be deemed and taken to be a part of the preceding Term.

And be it further Enacted, That writs of error upon any judgment given by any of the said Courts shall hereafter be made returnable only before the Judges or Judges and Barons, as the case may be, of the
 40 other two Courts in the Exchequer Chamber, any law or statute to the contrary notwithstanding; that a transcript of the record only shall be annexed to the return of the writ; and the Court of Error, after errors are duly assigned and issue in error joined, shall, at such time as the Judges shall appoint either in Term or vacation, review the proceedings,

and give judgment as they shall be advised thereon ; and such proceedings and judgment, as altered or affirmed, shall be entered on the original record, and such further proceeding as may be necessary thereon shall be awarded by the Court in which the original record remains ; from which judgment in error no writ of error shall lie or be had, except the same be made returnable in the High Court of Parliament. 5

Judgments to be pronounced in all trials for felonies upon record during sittings, except as herein is excepted.

And be it further Enacted, That upon all trials for felonies or misdemeanors upon any record of the Court of King's Bench, judgment shall be pronounced during the sittings or assizes by the Judge before whom the verdict shall be taken, as well upon the person who shall have suffered judgment by default or confession, upon the same record, as upon those who shall be tried and convicted, whether such persons be present or not in Court, excepting only where the prosecution shall be by information filed by leave of the Court of King's Bench, or such cases of informations filed by His Majesty's Attorney General wherein the Attorney General shall pray that the judgment may be postponed, and the judgment so pronounced shall be indorsed upon the record of *Nisi Prius*, and afterwards entered upon the record in Court as the judgment of the Court, unless the Court shall, within Six days after the commencement of the ensuing Term, grant a rule to shew cause why a new trial should not be had or the judgment amended ; and it shall be lawful for the Judge before whom the trial shall be had either to issue an immediate order or warrant for committing the defendant in execution, or to respite the execution of the judgment, upon such terms as he shall think fit, until the Sixth day of the ensuing Term. 10 15 20 25

Attornies of King's Bench or Common Pleas may practice in Exchequer in like manner.

And be it further Enacted, That all persons admitted or admissible to practise as attornies in the Courts of King's Bench and Common Pleas shall be admissible in like manner as attornies of the Court of Exchequer, and be admitted and allowed to practise there as such, upon application to the Barons of that Court, without being obliged to employ any clerk in Court in the capacity of attorney of the Court of Exchequer, any law or usage to the contrary notwithstanding ; and that it shall be lawful for the Barons of the said Court to distinguish by their rules and orders the fees which shall continue to be taken by the sworn and side clerks of the Court for the duties performed as officers of the Court, similar to the duties of the officers of the other superior Courts, from such fees and charges as shall be allowed to be taken by the attornies so admitted to practise, so that the amount of such fees and charges upon the whole do not exceed the amount and rate of such fees and charges as are now allowed upon the taxation of costs. 30 35 40

Judges may make rules for regulation of Courts.

And be it further Enacted, That in all cases relating to the practice of any of the Courts of King's Bench, Common Pleas or Exchequer, in matters over which the said Courts have a common jurisdiction, or of or

or relating to the practise of the Court of Error before mentioned, it shall be lawful for the Judges of the said Courts jointly, or any eight or more of them, including the Chiefs of each Court, to make general rules and orders for regulating the proceedings of all the said Courts; which said rules and orders so made shall be observed in all the said Courts; and no general rule or order respecting such matters shall be made in any manner, except as aforesaid.

And be it Enacted, That no person shall be liable to be arrested upon mesne proceess, for any debt or demand under the sum or value of One hundred pounds, contracted after the passing of this Act, except upon the positive oath, in the affidavit to hold to bail, that the defendant is about to leave the kingdom for the purpose of evading the payment of the plaintiff's demand, or the payment of his debts.

No person to be arrested upon Mesne Process under £. 100.

Provided always, and be it further Enacted, That it shall be lawful for a creditor claiming any debt or demand amounting to Twenty pounds, but not exceeding the sum of One hundred pounds, upon affidavit thereof having been made and filed in like manner as in the case of affidavits to hold to bail, to sue out and obtain a writ of *distringas*, returnable in days, against any debtor, not by the existing law privileged from arrest, for the amount of such debt or demand, which writ any Court having jurisdiction over the cause of action, and to hold pleas to the amount claimed, shall have power to award instead of a writ of *capias*, a copy of which writ of *distringas* shall be served by any person having the charge thereof, without the intervention of the sheriff, upon the defendant or defendants named therein personally, or by leaving the same at his or their usual places of abode; and unless such defendant or defendants shall within Five days after the service of such copy, give notice of bail being put in before a Judge or Commissioner for taking bail, to the plaintiff's attorney, and shall, if required, within Eight days after such service, duly perfect such bail, and justify the same by affidavit or in person, it shall be lawful for the plaintiff to deliver such writ of *distringas* to the sheriff, to be duly executed; whereupon the sheriff shall distrain the goods and chattels of the defendant, to an amount not exceeding the amount of the debt or demand sworn to in the said first mentioned affidavit, and which shall be indorsed upon the said writ, and the copy thereof to be served as aforesaid, and the further sum of Twenty pounds for costs, and to retain possession of the same until the defendant shall have given a bond, with sufficient sureties to the sheriff to put in and perfect special bail, at the return of such writ of *distringas*, at or within Eight days after the same shall have been executed, which bond shall be deemed a bail bond, and be assigned and available as such, according to the same rules as are now applicable to bail bonds; and in case special bail shall not be put in and perfected in manner hereinbefore directed, it shall be lawful for

CLAUSE (G.)
Creditors for Debts of a certain amount may sue out Writs of *Distringas*.

the Court, out of which such process shall issue, or for any Judge at chambers in vacation, upon affidavit of the facts, to direct the goods to be sold, and the amount of such sale to be paid to the plaintiff, in satisfaction of so much of the debt and costs to be taxed, as the same will extend to pay : Provided also, That in case a sufficient distress shall not be made to cover the amount of debt and costs as aforesaid, and if no bail being put in by the defendant and perfected, it shall be lawful for the plaintiff to issue another writ or writs of *distringas* for the balance, in like manner as is hereinbefore directed, or to cause an appearance to be entered for the defendant, on an affidavit of the execution of such writ of *distringas*, and the deficiency of the goods as aforesaid, and to proceed thereon in like manner as in cases of actions for sums not amounting to Twenty pounds. 5 10

CLAUSE (II.)

Not to affect the right of landlords to distrain.

Provided always, and be it further Enacted, That nothing herein contained shall affect the right of any landlord to distrain upon the goods of his tenant, if such goods should be in the hands of the sheriff, by virtue of any writ of *distringas* issued as aforesaid ; but that in case of distress being made upon the goods so taken by the sheriff, it shall be lawful for the sheriff to seize and take any other goods and chattels of the defendant for the purposes of this Act. 15 20

CLAUSE (I.)

Superior Officers of Pleas to settle fees for Writs of *Distringas*.

And be it further Enacted, That the master, prothonotaries and deputy clerk of the Pleas of the said Courts of King's Bench, Common Pleas and Exchequer, shall meet forthwith after the passing of this Act, and settle a scale of fees to be paid to the sheriff or his officers for the execution of the said writs of *distringas*, keeping possession and sale as aforesaid under the same, subject to the revision of the Judges of the said Courts, which costs, to be so ascertained as aforesaid, shall be costs in the cause. 25

CLAUSE (A.)

Interest upon debts due recoverable.

And be it further Enacted, That in all actions for the recovery of any debt or demand contracted after the passing of this Act, it shall be lawful for the plaintiff to recover, in addition to the debt or demand, lawful interest upon the same, to be computed from such time as the same was justly payable and was duly demanded by the creditor in writing. 30

CLAUSE (B.)

Plea of Statute of Limitations not allowed if defendant out of the country years.

And be it further Enacted, That no action of debt or assumpsit shall be barred by any plea of the Statute of Limitations passed in the twenty-first year of his Majesty King *James* the First, if it shall appear in evidence that the defendant hath not been within the realm for the full term of years, either continuously or at different intervals between the time when the demand arose and the commencement of the action. 35

And

And be it further Enacted, That bail shall be justified before a Judge in chambers.

Justification of
bail before
Judge in
Chambers.

CLAUSE (K.)

Defendants
may pay
money into
Court in lieu
of bail.

Provided always, and be it Enacted, That a defendant may be at liberty to pay monies into Court, in lieu of bail, and to take the same out on perfecting special bail, in like manner as is provided by an Act passed in the seventh and eighth years of the reign of His present Majesty, intituled, "An Act to prevent Arrests upon Mesne Process" where the debt or cause of action is under Twenty pounds, and to "regulate the practice of Arrests."

And be it further Enacted, That from and after the passing of this Act, His Majesty's writ shall be obeyed, and the jurisdiction of His Majesty's Courts of King's Bench, Common Pleas, and Exchequer, and of the several Judges and Barons thereof respectively, shall extend and be exercised over and within the county and city of *Chester*, and the several counties in *Wales*, in like manner to all intents and purposes respectively as in and over the counties of *England*, not being counties palatine.

Jurisdiction of
Courts at
Westminster
extended to
Counties
Palatine, &c.

And be it further Enacted, That all the power, authority and jurisdiction of His Majesty's Court of Session of the said county palatine of *Chester*, and of the Judges thereof, and of His Court of Exchequer of the said county palatine, and of the Chamberlain and Vice Chamberlain thereof, and also of His Judges and Courts of Great Sessions, both in law and equity, in the principality of *Wales*, shall cease and determine, except so far as relates to suits depending at the passing of this Act, which suits, if in equity, shall, from and after the passing of this Act, be transferred to His Majesty's Court of Chancery or Court of Exchequer, as the plaintiff shall think fit, and if in law, to the Court of Exchequer, there to be dealt with and decided according to the practice of those Courts respectively, or of the Court from whence the same shall be transferred, according to the discretion of the Court to which the same shall be transferred, which Court shall, for the purpose of such suits only, be deemed and taken to have all the power and jurisdiction to all intents and purposes possessed before the passing of this Act, by the Court from whence such suit shall be removed.

CLAUSE (C.)
Present juris-
diction of
Counties
Palatine and
Principality of
Wales to
cease.

Provided always, and be it Enacted, That nothing in this Act contained shall be construed to abridge the jurisdiction or rights now lawfully exercised by the mayor and citizens of *Chester*, in the courts of the county of the city of *Chester*, save and except that such writs of error or false judgment as may now by any charter or usage of the said corporation be brought upon the judgments of the said Courts, or any of them, before any of the Courts abolished by this Act, shall hereafter be issued, as in other cases of writs of error, from inferior Courts, and be returnable into His Majesty's Court of King's Bench.

CLAUSE (D.)
Not to extend
to rights of
Corporation
of *Chester*.

Attornies of
Courts of
Great Sessions
allowed to
practise, on
payment of
certain Fees.

And be it further Enacted, That all persons who on or before the
day of shall have
been admitted as attornies and shall then be practising in any of the
Courts of Great Sessions in the county palatine of *Chester* or in *Wales*,
shall be entitled, upon the payment of one shilling, to have their names
entered upon a roll to be kept for that purpose in each of the superior
Courts of *Westminster*, and thereupon be allowed to practise in such
Courts in all actions and suits against persons residing, at the commence-
ment of the suit, within the county of *Chester* or principality of *Wales*;
and that all persons having served or now actually serving as clerks to
such attornies under articles, and who would otherwise be entitled to be
admitted as attornies of the said Courts of Great Sessions, may on or
before the day of be admitted as
attornies of the said Courts at *Westminster*, for the purpose of practising
there, in the like matters only, without payment of any greater duty than
would be now payable by law upon their admission as attornies of such
Courts of Great Sessions respectively.

Attornies of
Great Ses-
sions may be
admitted as
Attornies at
Westminster.

And be it further Enacted, That all attornies now actually admitted
and practising in any of the said Courts of Great Sessions may be
admitted as attornies of the said Courts at *Westminster*, in like manner
as is now or may be hereafter prescribed for the admission of other
persons as attornies therein, upon payment of such sum for duty, in
addition to the sum already paid by them in that behalf, as shall, together
with such latter sum, amount to the full duty required upon admission
of attornies in the said Courts at *Westminster*; and that all persons
having served or now actually serving under articles as clerks to such
attornies of any of the said Courts of Grand Sessions, may at the expi-
ration of their respective times of service be admitted as attornies of
the said Courts at *Westminster*, in like manner, and upon payment of
the like duty, as if they had served under articles as clerks to attornies
of the last-mentioned Courts.

CLAUSE (L.)
Masters Ex-
traordinary
acting in
Courts abo-
lished allowed
to exercise
same powers
upon certain
conditions.

And be it further Enacted, That all persons who shall have been
duly appointed Masters Extraordinary in Chancery of any of the Courts
abolished by this Act, shall, upon producing his appointment before the
Lord Chancellor, or such person as shall by him be appointed to
inspect the same, and upon the payment of one shilling, be entitled to
have his name inserted in a list to be kept for that purpose of such
Masters Extraordinary, and to exercise within the limits of his existing
commission or commissions the same power and authority, and for the
same purposes, as if his commission had issued from the High Court
of Chancery.

Assizes to be
held in Ches-
ter and Wales.

And be it further Enacted, That from and after
Assizes shall be held for the trial and despatch of all matters,
criminal

23

criminal and civil, within the county of *Chester*, and the several counties and county towns in the principality of *Wales*, in like manner as in the counties of *England*, under and by virtue of commissions of Assize and of Oyer and Terminer and Gaol Delivery to be
 5 issued by His Majesty under the Great Seal, in manner and form, and for such counties and places either separately or conjointly, as His Majesty shall by any Order in Council appoint and direct : Provided always, That it shall be lawful for His Majesty, by order of His Majesty in Council, at any time to appoint such changes to be made in the
 10 place of holding the assizes for any such county or counties, or in the combinations of the several counties in *Chester* and *Wales*, as well as to combine any of the said counties with a county or counties in *England*, for the purpose aforesaid, as shall be found most expedient.

Counties in
Chester and
Wales may be
 combined.

And be it further Enacted, That one sheriff, to be named in any one
 15 of the counties combined by authority of any Order in Council issued by His Majesty by virtue of this Act, for the purposes of the Assizes, shall be sheriff for each of the said counties so combined, and shall have the authority of sheriff throughout each of the same, in like manner, and not otherwise, as the sheriff of each particular county hath heretofore
 20 lawfully had and exercised the same : Provided always, That he shall appoint a separate undersheriff in each county for the separate business thereof, as hath heretofore been accustomed ; and provided also, that in corporate towns having exclusive jurisdictions, the sheriff shall send the writs or process, or his precept thereupon, to the sheriffs or bailiffs
 25 of such corporations, without prejudice to their right of executing the same as heretofore ; and such corporation, sheriffs or bailiffs shall, after due receipt of such writs, process or precepts, in such cases be responsible to the Court, instead of the sheriff of the county, for any default in the execution thereof.

One sheriff to
 be named in
 one county for
 Assizes, to
 have authority
 throughout
 counties
 combined.

And be it further Enacted, That the Grand and Petty Juries at the
 30 Assizes held for the several counties under one commission, shall be summoned indiscriminately, but in equal proportions as nearly as may be from each of such counties, or in such other proportion order and manner as the Judges of Assize may hereafter think fit, by their order
 35 in writing to the sheriff, to appoint, and shall have, when assembled at the assize town, the like power and authority in all respects whatever as the grand and petty juries of each separate county heretofore respectively lawfully had and exercised.

Regulation as
 to Juries in
 several coun-
 ties under one
 commission.

And be it further Enacted, That for the purposes of trial and all other
 40 proceedings whatever which by any law or statute ought to be had in the county where the matter of such trial or proceeding, whether criminal or civil, arose, the Court and place where the Assizes shall be held under this statute for several different counties shall be deemed

Court where
 Assizes are
 held under
 this Act for
 several coun-
 ties, to be
 deemed in the
 county where-
 in matter
 arose.

taken and described to be within the county wherein such matter arose ; and in like manner the gaol of the county within which such assize shall be held, shall, for the purpose of committing prisoners for trial or in execution, be deemed and taken to be within each of the said combined counties; and the Justices of each county shall have power 5 to commit prisoners for trial to the said gaol, and to take all recognizances relating to matters of whatever kind to be had or done at the Assizes; provided that the Justices of each of such counties may, if they shall so think fit, commit prisoners to the gaols situate within their respective counties for trial, in which case the gaoler of such gaol shall 10 cause such prisoners as may be so committed to be carried to the assize town in safe custody for trial, and shall, under the direction of the Justices of the county in which his gaol is situated, provide proper means for safely conveying thereto any prisoner who shall be sentenced by the Judge at the Assizes to be imprisoned in that gaol. 15

Gaolers of different counties to attend where Assizes are held.

And be it further Enacted, That the gaolers of the different county gaols in each county shall attend the Assizes held for the said county, with the proper calendars of the prisoners in each gaol for the time being, to be verified, if required, on oath, before one of the Judges of Assize; and every officer and other person whose duty it is to attend 20 upon the Judges at the Assize, shall be bound as heretofore to attend the Assizes held for the county to which his duty or office shall be attached, and shall there be bound and entitled to discharge the same duties in like manner as if the Assizes had been held within the said county. 25

Gaoler of each county to keep separate accounts.

And be it further Enacted, That the gaoler of the county gaol of each county within which Assizes shall be holden for several counties, shall keep a separate account of the expense of maintaining the prisoners committed to his custody, whether for trial or otherwise, in respect of each separate county, which accounts shall be laid before the 30 Justices of each county at their several quarter sessions, and being duly examined and verified, shall be paid respectively out of the rates of each county by an order of the Justices in sessions upon the treasurer of each county respectively, so that no county may bear the expense of maintaining the prisoners of another county: Provided 35 always, That if, by reason of the accumulation of prisoners in the said gaol, it shall be found necessary at any time, by the consent of the Justices of the several counties, or by the examination and order of the Judges of Assize, to enlarge the same gaol, the expense of so enlarging the same shall be defrayed out of the county rates of the 40 several combined counties, each contributing to the whole sum in such proportion as the Justices of the said counties shall agree, or, in case of a difference of opinion amongst them, then as the Judges of Assize shall direct.

And

And be it further Enacted, That the additional expense which may be found necessary in providing proper Courts and accommodation for the Judges at the Assizes, shall be borne by the several combined counties in such proportion as the Judges of Assize shall determine, reference being had to any advantages which may result to the county within which the Assizes shall be held by reason thereof.

Expenses incurred in holding Assizes to be borne equally among combined counties under this Act.

CLAUSE (M.)

Upon termination of office of Welsh Judges their salaries to be retained and form part of Consolidated Fund.

And be it further Enacted, That the salaries of the Judges of the county palatine of *Chester*, and of the Judges of the several Courts of Great Sessions in the principality of *Wales*, shall, upon the termination of the said offices respectively, make part of the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland*, and a sum equal to the amount of each such salary shall be retained in the Exchequer, as part of the Consolidated Fund, and a part thereof shall be issued or carried to the account of the Civil List, any thing in any Act or Acts of Parliament to the contrary notwithstanding.

CLAUSE (N.)

Compensation to Welsh Judges on abolition of their offices.

AND whereas it is expedient that due provision should be made for the compensation of the Judges hereinafter mentioned, and of other persons having a freehold in their offices in the county of *Chester* or principality of *Wales*, for the losses they may sustain by the abolition of their offices, or reduction of their fees by virtue of this Act; BE it therefore Enacted, That from and after the commencement of this Act, there shall be issued, paid and payable out of and charged upon the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland* (after paying or reserving sufficient to pay all former charges thereon, but in preference to any charge hereafter to be made) to *Thomas Jervis*, esquire, now one of His Majesty's Justices of the *Chester* circuit, the sum of One thousand one hundred pounds; to *Jonathan Raine*, esquire, now His Majesty's Chief Justice of the *North Wales* circuit, the sum of One thousand pounds; and to *Robert Matthew Casberd*, esquire, one of His Majesty's Judges of the *Brecon* circuit, the sum of One thousand pounds; the said several sums to be payable and paid, free and clear from all taxes and deductions whatsoever, by even portions on the fifth days of January, April and July, and the tenth day of October in each year, the first payment thereof to commence and be made on the first of such days as shall occur after the commencement of this Act; and the said annuities respectively to continue during the lives of the parties respectively entitled to receive the same, or until such time as they may respectively be appointed by His Majesty to any other place or office, the salary or emoluments of which shall be of equal or greater amount than the said annuities respectively; or in case the salary or emolument of such office shall be of less yearly amount than the annuity which the party appointed to such office is entitled by this Act to receive, then the said annuity to be abated and reduced in proportion to the amount of such salary or emoluments, so as to make the whole sum

received by the party equal to but not exceeding the amount of such annuity.

CLAUSE (O.)
Compensations to persons affected by abolition of Welsh Judgeships.

And be it further Enacted, That there shall in like manner, after the commencement of this Act, be issued paid and payable out of and charged upon the said Consolidated Fund (after paying and reserving as aforesaid, and with such preference as aforesaid) to the several persons having a freehold interest in such offices in the county of *Chester* or principality of *Wales*, as shall be abolished or affected by virtue of this Act, free and clear of all taxes and deductions whatsoever, such sums of money at such times, by way of annuity or otherwise, as shall be adjudged and determined to be due to such persons respectively by any commission to be appointed by His Majesty, or by virtue of any Act of Parliament, for the purpose of determining the amount of the compensation that ought to be due and payable in such cases; and that in the mean time and until compensation shall be awarded and determined in manner aforesaid, or the time shall have elapsed that may be appointed for claiming the same, it shall be lawful for the Commissioners of His Majesty's Treasury, or any three of them, to issue their warrants for the payment of such persons as aforesaid, out of the said Consolidated Fund, of such half-yearly or quarterly allowances as to them shall seem reasonable, both as to the amount and times of payment on account of such compensation, as may thereafter be awarded to the said parties respectively.

CLAUSE (P.)
Persons appointed to their offices about to be abolished, under certain restrictions not entitled to compensation.

Provided always, and be it further Enacted, That no person shall be entitled to such compensation or allowance as aforesaid, whose appointment to his office was qualified by any condition or reservation expressed in his patent, or otherwise made known to such person, that such office, or the emoluments thereof, were to be held and enjoyed, subject to any future provision to be made by Parliament touching the same, or without any claim to compensation in case the same should cease, or be subjected to any regulation; and provided also, that no person shall be entitled to receive any such compensation or allowance who shall not previously make a full and true statement to the Commissioners of His Majesty's Treasury, to be verified on oath before a Judge or Master in Chancery, if they shall think fit so to direct, of the amount of the salary, fees and emoluments of such office, and of the disbursements and outgoings of the same for the space of Five years before the passing of this Act; and that such compensation or allowance shall cease altogether, or be reduced in amount, as the case may be, whenever the party entitled to receive the same shall be placed in any other public office, of which the salary and emoluments shall be equal to the whole or to part of such compensation or allowance, so that in the last-mentioned case no person shall be entitled to receive more of such compensation or allowance than shall be equal to the difference between the full amount thereof,

thereof, and the amount of the salary and emoluments of the office in which he may be hereafter placed.

5 And be it further Enacted, That the Records of the several Courts abolished by this Act shall, until otherwise provided by law, be kept by the same persons and in the same places as before the passing of this Act.

37
CLAUSE (Q.)
Records of the several Courts abolished to be kept as heretofore until otherwise provided for.

10 Provided always, and be it further Enacted, That nothing in this Act contained shall be taken to affect the right of any lessee by patent under the Crown, to any portion of the money paid upon fines and recoveries which he was entitled to receive before the passing of this Act, but that the same shall be paid and payable by the proper officer of the Court of Common Pleas, who shall receive the same, to such lessee or his agent in like manner and to the same extent as heretofore, during the continuance of his term.

CLAUSE (R.)
Not to affect the rights of Lessees by Patent before the passing of this Act.

15 And be it further Enacted, That in all cases where any trust for charitable uses or of a public nature, shall have been cast upon the Judges of the Courts hereby abolished by virtue of their offices, it shall be lawful for the Lord High Chancellor or Keeper of the Seals for the time being, or for the Judges of Assize upon their circuits in the county
20 of *Chester* or principality of *Wales*, to appoint such other trustee or trustees as they shall think fit by any writing under their hands, in place of the former Judge or Judges, which trustee or trustees so named shall have the same power and authority, and be subject to the same rules and duties, as the trustee or trustees for whom he or they may be substituted.

CLAUSE (S.)
Lord Chancellor may appoint Trustees for Charitable Uses in lieu of Judges abolished by this Act.

11 GEO. IV.—Sess. 1830.

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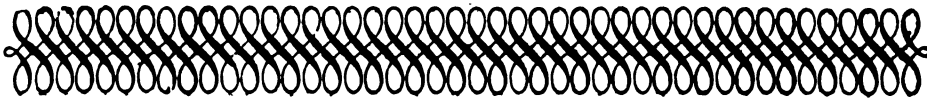
[AS AMENDED ON RE-COMMITMENT]

For the more effectual Administration of Justice
in *England and Wales*.

Ordered, by The House of Commons, to be Printed,
20 May 1830.

27 May 1830.

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B I L L

[AS AMENDED ON SECOND RE-COMMITMENT]

For the more effectual Administration of Justice
in *England and Wales*.

N. B. *The Clauses marked (C. and D.) were added by the Committee;
the Clauses marked (E. & F. & K. to S.) on the Re-commitment;
and the Clauses marked (T. to Z.) on the Second Re-commitment.*

WHEREAS the appointment of an additional Puisne Judge to each of His Majesty's Superior Courts of Common Law would cause much greater facility and despatch of Business therein: AND whereas it is expedient to put an end to the separate Jurisdiction for the County Palatine of *Chester* and the Principality of *Wales*; and to make more effectual provision for the Administration of Justice in *England and Wales*; ~~BE it therefore Enacted~~, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT whenever His Majesty shall be pleased to appoint an additional Puisne Judge to each of His Courts of the King's Bench, the Common Pleas, and the Exchequer, the Puisne Judges of each Court shall sit by rotation in each Term, or otherwise, as they shall agree amongst themselves, so that no greater number than Three of them shall sit at the same time in banc for the transaction of business in Term.

Preamble.

Puisne Judges
to sit in rota-
tion.

And be it further Enacted, That from and after the appointment of an additional Judge to each of the said Courts of King's Bench, Common Pleas and Exchequer, there shall be issued and paid and payable out of and charged upon the Consolidated Fund of the United Kingdom of *Great Britain and Ireland* (after paying or reserving sufficient to pay all such sums as have been directed by any former Act of Parliament to be paid out

CLAUSE (E.)
Salaries to
additional
Judges.

of the same, but with preference to all other payments which shall hereafter be charged upon the same,) the sum of Five thousand pounds to each such additional Judge as he shall be so appointed, as and for a yearly salary, to be paid from time to time quarterly, free and clear from all taxes and deductions whatsoever, on the fifth day of January, the fifth 5 April, the fifth day of July, and the tenth day of October, by equal portions, the first payment to be made on the first of such days respectively as shall occur after the appointment of the Judge entitled to receive the same; and that if any person hereafter appointed to such office shall die or resign the same, the executor or administrator of the 10 person so dying, or the person so resigning, shall be entitled to receive such proportionable part of the salary aforesaid as shall have accrued during the time that such person shall have executed such office since the last payment, and that the successor of any such person so dying or resigning shall be entitled to receive such portion of the salary as 15 shall be accruing or shall accrue from the day of such death or resignation.

CLAUSE (F.)
Retirement
Allowances to
additional
Judges.

And be it further Enacted, That upon the resignation of any such additional Judge, it shall be lawful for His Majesty, by His letters patent under the great seal of *Great Britain*, to give and grant to the 20 person so resigning (under and subject to the same conditions limitations and restrictions as any annuity, on resignation, can now by law be granted to any other Judge of the same Court,) an annuity during his life not exceeding the sum of Three thousand five hundred pounds yearly, or such other sum as shall by any Act hereafter to be made, 25 provided for Judges resigning their offices, to be paid and payable out of and charged upon the Consolidated Fund aforesaid, free and clear of all taxes and deductions whatsoever, by even quarterly payments to be made respectively on the days aforesaid in each year.

Additional
Judges may
sit in London
and Westminster.

And be it further Enacted, That every Judge of the said Courts, to 30 whatever Court he may belong, shall be and he is hereby accordingly authorized to sit in *London* and *Middlesex*, for the trial of Issues arising in any of the said Courts, and to transact such business at chambers or elsewhere, depending in any of the said Courts, as relates to matters over which the said Courts have a common jurisdiction, and as may, 35 according to the course and practice of the Court, be transacted by a single Judge.

Repeal of
Act 3 G. IV.

And be it further Enacted, That a certain Act, passed in the third year of His present Majesty's reign, intituled, "An Act to repeal an " Act of the first and second years of His present Majesty, for facilitating the despatch of Business in the Court of King's Bench, and to " make further provision in lieu thereof," shall be and the same is hereby Repealed, except so far as it repeals the said former Act.

And

And be it further Enacted, That from and after the passing of this Act Michaelmas Term shall begin on the second, and end on the twenty-fifth day of November; Hilary Term shall begin on the eleventh, and end on the thirty-first day of January; Easter Term shall begin on the fifteenth day of April, and end on the eighth day of May; and Trinity Term shall begin on the twenty-second day of May, and end on the twelfth day of June; and that the Essoign and Return days of each Term shall be fixed by the Judges until further provision be made by Parliament, with the same relation to the commencement of each Term as they now bear, and shall be distinguished by the day of the Term on which they respectively fall, the Monday being in all cases substituted for the Sunday, when it shall happen that the day would fall on Sunday, except always that in Easter Term there shall be but four Returns instead of five, the last being omitted; provided that if the whole or any number of the days intervening between the Thursday before and the Wednesday next after Easter day shall fall within Easter Term, no business of the Term, excepting such as may be done before a single Judge at chambers, shall be transacted on Good Friday, or on the Saturday, Monday or Tuesday following, but the Term shall in such case be prolonged and continue for such number of days of business as shall be equal to the number of the days before mentioned, exclusive of Easter day falling within the Term, and the commencement of the ensuing Trinity Term shall in such case be postponed, and its continuance prolonged for an equal number of days of business.

Terms altered.

And be it further Enacted, That not more than Twenty-four days, exclusive of Sundays, after Michaelmas, Hilary, and Trinity Terms, nor more than Six days, exclusive of Sundays, after Easter Term, to be reckoned consecutively immediately after each Term respectively, shall be appropriated to Sittings in *London* and *Middlesex* for the trial of Issues of fact arising in any of the said Courts; provided that if any trial at bar shall be directed by any of the said Courts, it shall be competent to the Judges of such Court to appoint such day or days for the trial thereof as they shall think fit; and the time so appointed, if in vacation, shall for the purpose of such trial be deemed and taken to be a part of the preceding Term.

Limiting time for Sittings.

And be it further Enacted, That writs of error upon any judgment given by any of the said Courts shall hereafter be made returnable only before the Judges or Judges and Barons, as the case may be, of the other two Courts in the Exchequer Chamber, any law or statute to the contrary notwithstanding; that a transcript of the record only shall be annexed to the return of the writ; and the Court of Error, after errors are duly assigned and issue in error joined, shall, at such time as the Judges shall appoint either in Term or vacation, review the proceedings, and

Regulation as to Writs of Error.

and give judgment as they shall be advised thereon ; and such proceedings and judgment, as altered or affirmed, shall be entered on the original record, and such further proceeding as may be necessary thereon shall be awarded by the Court in which the original record remains ; from which judgment in error no writ of error shall lie or be had, 5 except the same be made returnable in the High Court of Parliament.

Judgments to be pronounced in all trials for felonies upon record during sittings, except as herein is excepted.

And be it further Enacted, That upon all trials for felonies or misdemeanors upon any record of the Court of King's Bench, judgment shall be pronounced during the sittings or assizes by the Judge before whom the verdict shall be taken, as well upon the person who shall have 10 suffered judgment by default or confession, upon the same record, as upon those who shall be tried and convicted, whether such persons be present or not in Court, excepting only where the prosecution shall be by information filed by leave of the Court of King's Bench, or such cases of informations filed by His Majesty's Attorney General wherein the 15 Attorney General shall pray that the judgment may be postponed, and the judgment so pronounced shall be indorsed upon the record of *Nisi Prius*, and afterwards entered upon the record in Court as the judgment of the Court, unless the Court shall, within Six days after the commencement of the ensuing Term, grant a rule to shew cause why a 20 new trial should not be had or the judgment amended ; and it shall be lawful for the Judge before whom the trial shall be had either to issue an immediate order or warrant for committing the defendant in execution, or to respite the execution of the judgment, upon such terms as he shall think fit, until the Sixth day of the ensuing Term. 25

CLAUSE (T.)
Judgment may be signed on giving four days notice, by the party entitled.

And be it further Enacted, That in all cases of trials at *Nisi Prius*, the party who shall be entitled to judgment, either of nonsuit or by reason of the verdict of a jury, upon certificate of the Judge before whom the cause shall be tried, of his opinion that the judgment ought to be signed without delay, may upon giving Four days notice to the opposite party 30 proceed to sign such judgment, and to tax his costs thereon, and may within Seven days after such judgment shall be signed, issue execution, unless the adverse party shall within such Seven days have given security to the satisfaction of the officer by whom the costs shall have been taxed, for payment of the amount for which such judgment shall have 35 been signed, within the first Six days of the ensuing term, unless the Court shall otherwise direct ; such security, in the case of a judgment for a plaintiff in ejectment, to extend to such further sum as the officer shall direct, to prevent intermediate spoliation or waste ; and in the case of writs of inquiry, judgment shall be signed in like manner and within 40 the same time, and subject to the like provisions, unless the undersheriff shall certify on the back of the writ of inquiry, that such judgment ought to be delayed until the ensuing term.

. And

And be it further Enacted, That any judgment signed in pursuance of the preceding clause, and any execution issued thereon, shall be dated on the day when signed or issued respectively, without reference to any antecedent term, without prejudice to the right of the party affected by any such judgment or execution to apply to the court to set aside the proceedings.

CLAUSE (V.)
Judgment and execution to be dated on day when signed.

And be it further Enacted, That all persons admitted or admissible to practise as attornies in the Courts of King's Bench and Common Pleas shall be admissible in like manner as Attornies of the Court of Exchequer, and be admitted and allowed to practise there as such, upon application to the Barons of that Court, without being obliged to employ any clerk in Court in the capacity of attorney of the Court of Exchequer, any law or usage to the contrary notwithstanding; and that it shall be lawful for the Barons of the said Court to distinguish by their rules and orders the fees which shall continue to be taken by the sworn and side clerks of the Court for the duties performed as officers of the Court, similar to the duties of the officers of the other superior Courts, from such fees and charges as shall be allowed to be taken by the attornies so admitted to practise, so that the amount of such fees and charges upon the whole do not exceed the amount and rate of such fees and charges as are now allowed upon the taxation of costs.

Attornies of King's Bench or Common Pleas may practise in Exchequer in like manner.

And be it further Enacted, That in all cases relating to the practice of any of the Courts of King's Bench, Common Pleas or Exchequer, in matters over which the said Courts have a common jurisdiction, or of or relating to the practise of the Court of Error before mentioned, it shall be lawful for the Judges of the said Courts jointly, or any eight or more of them, including the Chiefs of each Court, to make general rules and orders for regulating the proceedings of all the said Courts; which said rules and orders so made shall be observed in all the said Courts; and no general rule or order respecting such matters shall be made in any manner, except as aforesaid.

Judges may make rules for regulation of Courts.

And be it further Enacted, That bail shall be justified before a Judge in chambers.

Justification of bail before Judge in Chambers.

Provided always, and be it Enacted, That a defendant may be at liberty to pay monies into Court, in lieu of bail, and to take the same out on perfecting special bail, in like manner as is provided by an Act passed in the seventh and eighth years of the reign of His present Majesty, intituled, "An Act to prevent Arrests upon Mesne Process where the debt or cause of action is under Twenty pounds, and to regulate the practice of Arrests."

CLAUSE (K.)
Defendants may pay money into Court in lieu of bail.

And be it further Enacted, That from and after the passing of this Act, His Majesty's writ shall be obeyed, and the jurisdiction of His Majesty's

Jurisdiction of Courts at Westminster extended to

Counties
Palatine, &c.

Majesty's Courts of King's Bench, Common Pleas, and Exchequer, and of the several Judges and Barons thereof respectively, shall extend and be exercised over and within the county and city of *Chester*, and the several counties in *Wales*, in like manner to all intents and purposes respectively as in and over the counties of *England*, not being 5
counties palatine.

CLAUSE (C.)
Present juris-
diction of
Counties
Palatine and
Principality of
Wales to
cease.

And be it further Enacted, That all the power, authority and jurisdiction of His Majesty's Court of Session of the said county palatine of *Chester*, and of the Judges thereof, and of His Court of Exchequer of the said county palatine, and of the Chamberlain and Vice Chamberlain thereof, and also of His Judges and Courts of Great Sessions, both 10
in law and equity, in the principality of *Wales*, shall cease and determine, except so far as relates to suits depending at the passing of this Act, which suits, if in equity, shall, from and after the passing of this Act, be transferred to His Majesty's Court of Chancery or Court of 15
Exchequer, as the plaintiff shall think fit, and if in law, to the Court of Exchequer, there to be dealt with and decided according to the practice of those Courts respectively, or of the Court from whence the same shall be transferred, according to the discretion of the Court to which the same shall be transferred, which Court shall, for the purpose of such 20
suits only, be deemed and taken to have all the power and jurisdiction to all intents and purposes possessed before the passing of this Act, by the Court from whence such suit shall be removed.

CLAUSE (D.)
Not to extend
to rights of
Corporation
of *Chester*.

Provided always, and be it Enacted, That nothing in this Act contained shall be construed to abridge the jurisdiction or rights now law- 25
fully exercised by the mayor and citizens of *Chester*, in the courts of the county of the city of *Chester*, save and except that such writs of error or false judgment as may now by any charter or usage of the said corporation be brought upon the judgments of the said Courts, or any of them, before any of the Courts abolished by this Act, shall hereafter be 30
issued, as in other cases of writs of error, from inferior Courts, and be returnable into His Majesty's Court of King's Bench.

Attornies of
Courts of
Great Sessions
allowed to
practise, on
payment of
certain Fees.

And be it further Enacted, That all persons who on or before the passing of this Act shall have been admitted as Attornies and shall then be practising in any of the Courts of Great Sessions in the county 35
palatine of *Chester* or in *Wales*, shall be entitled, upon the payment of one shilling, to have their names entered upon a roll to be kept for that purpose in each of the superior Courts of *Westminster*, and thereupon be allowed to practise in such Courts in all actions and suits against persons residing, at the commencement of the suit, within the county of 40
Chester or principality of *Wales*; and that all persons having served or now actually serving as clerks to such attornies under articles, and who would otherwise be entitled to be admitted as attornies of the said
Courts

39

Courts of Great Sessions, may on or before the expiration of Six months after the passing of this Act be admitted as attornies of the said Courts at *Westminster*, for the purpose of practising there, in the like matters only, without payment of any greater duty than would be now payable
 5 by law upon their admission as attornies of such Courts of Great Sessions respectively.

And be it further Enacted, That all Attornies now actually admitted and practising in any of the said Courts of Great Sessions may be admitted as attornies of the said Courts at *Westminster*, in like manner
 10 as is now or may be hereafter prescribed for the admission of other persons as attornies therein, upon payment of such sum for duty, in addition to the sum already paid by them in that behalf, as shall, together with such latter sum, amount to the full duty required upon admission of attornies in the said Courts at *Westminster*; and that all persons
 15 having served or now actually serving under articles as clerks to such attornies of any of the said Courts of Grand Sessions, may at the expiration of their respective times of service be admitted as attornies of the said Courts at *Westminster*, in like manner, and upon payment of the like duty, as if they had served under articles as clerks to attornies
 20 of the last-mentioned Courts.

Attornies of Great Sessions may be admitted as Attornies at Westminster.

And be it further Enacted, That all persons who shall have been duly appointed Masters Extraordinary in Chancery of any of the Courts abolished by this Act, shall, upon producing his appointment before the Lord Chancellor, or such person as shall by him be appointed to
 25 inspect the same, and upon the payment of one shilling, be entitled to have his name inserted in a list to be kept for that purpose of such Masters Extraordinary, and to exercise within the limits of his existing commission or commissions the same power and authority, and for the same purposes, as if his commission had issued from the High Court
 30 of Chancery.

CLAUSE (L.)
 Masters Extraordinary acting in Courts abolished allowed to exercise same powers upon certain conditions.

And be it further Enacted, That from and after the passing of this Act Assizes shall be held for the trial and despatch of all matters, criminal and civil, within the county of *Chester*, and the several counties and county towns in the principality of *Wales*, in like manner
 35 as in the counties of *England*, under and by virtue of commissions of Assize and of Oyer and Terminer and Gaol Delivery to be issued by His Majesty under the Great Seal, in manner and form, and for such counties and places either separately or conjointly, as His Majesty shall by any Order in Council appoint and direct: Provided
 40 always, That it shall be lawful for His Majesty, by order of His Majesty in Council, at any time to appoint such changes to be made in the place of holding the assizes for any such county or counties, or in the combinations of the several counties in *Chester* and *Wales*, as well as to
 463. combine

Assizes to be held in Chester and Wales.

Counties in Chester and Wales may be combined.

combine any of the said counties with a county or counties in *England*, for the purpose aforesaid, as shall be found most expedient.

CLAUSE (W.)
Mode of holding Assizes in Chester and Wales until His Majesty shall otherwise direct.

AND whereas it may be expedient to appoint some certain course to be taken with regard to holding the Assizes within the county of *Chester* and the Principality of *Wales*, under His Majesty's Commission, 5
until such time as His Majesty shall, by the advice of his council, otherwise order and direct; BE it therefore Enacted, That from and after the passing of this Act, until such time as His Majesty shall by any Order in Council, to be issued under the authority of this Act, otherwise order and direct, one of the two Judges appointed to hold the 10
Sessions of Assizes under His Majesty's Commission within the county of *Chester* and Principality of *Wales*, shall in such order and at such times as they shall appoint, proceed to hold such Assizes at the several places where the same have heretofore been most usually held within *South Wales*; and the other of such Judges shall proceed to hold such 15
Assizes at the several places where the same have heretofore been most usually held in *North Wales*, and both of such Judges shall hold the Assizes in and for the county of *Chester*, in like manner as in other counties of *England*.

One sheriff to be named in one county for Assizes, to have authority throughout counties combined.

And be it further Enacted, That one sheriff, to be named in any one 20
of the counties combined by authority of any Order in Council issued by His Majesty by virtue of this Act, for the purposes of the Assizes, shall be sheriff for each of the said counties so combined, and shall have the authority of sheriff throughout each of the same, in like manner, and not otherwise, as the sheriff of each particular county hath heretofore 25
lawfully had and exercised the same: Provided always, That he shall appoint a separate undersheriff in each county for the separate business thereof, as hath heretofore been accustomed; and provided also, that in corporate towns having exclusive jurisdictions, the sheriff shall send the writs or process, or his precept thereupon, to the sheriffs or bailiffs 30
of such corporations, without prejudice to their right of executing the same as heretofore; and such corporation, sheriffs or bailiffs shall, after due receipt of such writs, process or precepts, in such cases be responsible to the Court, instead of the sheriff of the county, for any default in the execution thereof. 35

Regulation as to Juries in several counties under one commission.

And be it further Enacted, That the Grand and Petty Juries at the Assizes held for the several counties under one commission, shall be summoned indiscriminately, but in equal proportions as nearly as may be from each of such counties, or in such other proportion order and manner as the Judges of Assize may hereafter think fit, by their order 40
in writing to the sheriff, to appoint, and shall have, when assembled at the assize town, the like power and authority in all respects whatever as the grand and petty juries of each separate county heretofore respectively lawfully had and exercised.

And

And be it further Enacted, That for the purposes of trial and all other proceedings whatever which by any law or statute ought to be had in the county where the matter of such trial or proceeding, whether criminal or civil, arose, the Court and place where the Assizes shall be held under this statute for several different counties shall be deemed taken and described to be within the county wherein such matter arose; and in like manner the gaol of the county within which such assize shall be held, shall, for the purpose of committing prisoners for trial or in execution, be deemed and taken to be within each of the said combined counties; and the Justices of each county shall have power to commit prisoners for trial to the said gaol, and to take all recognizances relating to matters of whatever kind to be had or done at the Assizes; provided that the Justices of each of such counties may, if they shall so think fit, commit prisoners to the gaols situate within their respective counties for trial, in which case the gaoler of such gaol shall cause such prisoners as may be so committed to be carried to the assize town in safe custody for trial, and shall, under the direction of the Justices of the county in which his gaol is situated, provide proper means for safely conveying thereto any prisoner who shall be sentenced by the Judge at the Assizes to be imprisoned in that gaol.

Court where Assizes are held under this Act for several counties, to be deemed in the county wherein matter arose.

And be it further Enacted, That the gaolers of the different county gaols in each county shall attend the Assizes held for the said county, with the proper calendars of the prisoners in each gaol for the time being, to be verified, if required, on oath, before one of the Judges of Assize; and every officer and other person whose duty it is to attend upon the Judges at the Assize, shall be bound as heretofore to attend the Assizes held for the county to which his duty or office shall be attached, and shall there be bound and entitled to discharge the same duties in like manner as if the Assizes had been held within the said county.

Gaolers of different counties to attend where Assizes are held.

And be it further Enacted, That the gaoler of the county gaol of each county within which Assizes shall be holden for several counties, shall keep a separate account of the expense of maintaining the prisoners committed to his custody, whether for trial or otherwise, in respect of each separate county, which accounts shall be laid before the Justices of each county at their several quarter sessions, and being duly examined and verified, shall be paid respectively out of the rates of each county by an order of the Justices in sessions upon the treasurer of each county respectively, so that no county may bear the expense of maintaining the prisoners of another county: Provided always, That if, by reason of the accumulation of prisoners in the said gaol, it shall be found necessary at any time, by the consent of the Justices of the several counties, or by the examination and order of the Judges of Assize, to enlarge the same gaol, the expense of so

Gaoler of each county to keep separate accounts.

enlarging the same shall be defrayed out of the county rates of the several combined counties, each contributing to the whole sum in such proportion as the Justices of the said counties shall agree, or, in case of a difference of opinion amongst them, then as the Judges of Assize shall direct.

5

Expenses incurred in holding Assizes to be borne equally among combined counties under this Act.

And be it further Enacted, That the additional expense which may be found necessary in providing proper Courts and accommodation for the Judges at the Assizes, shall be borne by the several combined counties in such proportion as the Judges of Assize shall determine, reference being had to any advantages which may result to the county within 10 which the Assizes shall be held by reason thereof.

CLAUSE (X.)
As to rendering in discharge of bail, defendant not being in custody.

And be it further Enacted, That a defendant who shall have been held to bail upon any mesne process issued out of any of His Majesty's superior courts of record, may be rendered in discharge of his bail, either to the prison of the court out of which such process issued, according to the practice of such court, or to the common gaol of the county in which he was so arrested, and the render to the county gaol shall be effected in the manner following; that is to say, the defendant or his bail, or one of them, shall for the purpose of such render obtain an order of a Judge of one of His Majesty's superior courts of Westminster, and shall lodge such order with the gaoler of such county gaol, and a notice in writing of the lodgment of such order, and of the defendant's being actually in custody of such gaoler, by virtue of such order, signed by the defendant or the bail, or either of them, or by the attorney or agent of any or either of them, shall be delivered to the plaintiff's attorney or agent, and the sheriff or other person responsible for the custody of debtors in such county gaol shall on such render, so perfected, be duly charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from liability as such. 15 20 25

CLAUSE (Y.)
As to rendering in discharge of bail, defendant being already in custody.

And be it further Enacted, That a defendant who shall hereafter be in custody of the gaoler of the county gaol of any county in *England*, or in the principality of *Wales*, by virtue of any proceeding out of any of His Majesty's superior courts of record, may be rendered in discharge of his bail in any other action depending in any of the said courts, in the manner hereinbefore provided for a render in discharge of bail; and the keeper of such gaol, or such sheriff or other person, responsible for the custody of debtors as aforesaid, shall on such render be duly charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from liability as such. 30 35

(CLAUSE M.)
Upon termination of office of Welsh Judges their salaries to be retained

And be it further Enacted, That the salaries of the Judges of the county palatine of *Chester*, and of the Judges of the several Courts of Great Sessions in the principality of *Wales*, shall, upon the termination of

of

of the said offices respectively, make part of the Consolidated Fund of the United Kingdom of *Great Britain and Ireland*, and a sum equal to the amount of each such salary shall be retained in the Exchequer, as part of the Consolidated Fund, and no part thereof shall be issued
 5 or carried to the account of the Civil List; any thing in any Act or Acts of Parliament to the contrary notwithstanding.

and form part
 of Consoli-
 dated Fund.

AND whereas it is expedient that due provision should be made for the compensation of the Judges hereinafter mentioned, and of other persons having a freehold in their offices in the county of *Chester* or
 10 principality of *Wales*, for the losses they may sustain by the abolition of their offices, or reduction of their fees by virtue of this Act; BE it therefore Enacted, That from and after the passing of this Act, there shall be issued, paid and payable out of and charged upon the Consolidated Fund of the United Kingdom of *Great Britain and Ireland*
 15 (after paying or reserving sufficient to pay all former charges thereon, but in preference to any charge hereafter to be made) to *Thomas Jervis*, esquire, now one of His Majesty's Justices of the *Chester* circuit, the sum of One thousand one hundred pounds; to *Jonathan Raine*, esquire, now His Majesty's Chief Justice of the *North Wales* circuit, the sum
 20 of One thousand pounds; and to *Robert Matthew Casberd*, esquire, one of His Majesty's Judges of the *Brecon* circuit, the sum of One thousand pounds; the said several sums to be payable and paid, free and clear from all taxes and deductions whatsoever, by even portions on the fifth days of January, April and July, and the tenth day of October in
 25 each year, the first payment thereof to commence and be made on the first of such days as shall occur after the commencement of this Act; and the said annuities respectively to continue during the lives of the parties respectively entitled to receive the same, or until such time as they may respectively be appointed by His Majesty to any other place
 30 or office, the salary or emoluments of which shall be of equal or greater amount than the said annuities respectively; or in case the salary or emolument of such office shall be of less yearly amount than the annuity which the party appointed to such office is entitled by this Act to receive, then the said annuity to be abated and reduced in proportion to the
 35 amount of such salary or emoluments, so as to make the whole sum received by the party equal to but not exceeding the amount of such annuity.

CLAUSE (N.)
 Compensation
 to Welsh
 Judges on
 abolition of
 their offices.

And be it further Enacted, That there shall in like manner, after the passing of this Act, be issued paid and payable out of and charged
 40 upon the said Consolidated Fund (after paying and reserving as aforesaid, and with such preference as aforesaid) to the several persons having a freehold interest in such offices in the county of *Chester* or principality of *Wales*, as shall be abolished or affected by virtue of this

CLAUSE (O.)
 Compensa-
 tions to per-
 sons affected
 by abolition
 of the Courts
 of Wales and
 Chester.

Act, free and clear of all taxes and deductions whatsoever, such sums of money at such times, by way of annuity or otherwise, as shall be adjudged and determined to be due to such persons respectively by any commission to be appointed by His Majesty, or by virtue of any Act of Parliament, for the purpose of determining the amount of the compensation that ought to be due and payable in such cases; and that in the mean time and until compensation shall be awarded and determined in manner aforesaid, or the time shall have elapsed that may be appointed for claiming the same, it shall be lawful for the Commissioners of His Majesty's Treasury, of the United Kingdom of *Great Britain* and *Ireland*, or any three of them, to issue their warrants for the payment of such persons as aforesaid, out of the said Consolidated Fund, of such half-yearly or quarterly allowances as to them shall seem reasonable, both as to the amount and times of payment on account of such compensation, as may thereafter be awarded to the said parties respectively.

CLAUSE (P.)
Persons appointed to their offices about to be abolished, under certain restrictions not entitled to compensation.

Provided always, and be it further Enacted, That no person shall be entitled to such compensation or allowance as aforesaid, whose appointment to his office was qualified by any condition or reservation expressed in his patent, or otherwise made known to such person, that such office, or the emoluments thereof, were to be held and enjoyed, subject to any future provision to be made by Parliament touching the same, or without any claim to compensation in case the same should cease, or be subjected to any regulation; and provided also, that no person shall be entitled to receive any such compensation or allowance who shall not previously make a full and true statement to the said Commissioners of His Majesty's Treasury, to be verified on oath before a Judge or Master in Chancery, if they shall think fit so to direct, of the amount of the salary, fees and emoluments of such office, and of the disbursements and outgoings of the same for the space of Five years before the passing of this Act; and that such compensation or allowance shall cease altogether, or be reduced in amount, as the case may be, whenever the party entitled to receive the same shall be placed in any other public office, of which the salary and emoluments shall be equal to the whole or to part of such compensation or allowance, so that in the last-mentioned case no person shall be entitled to receive more of such compensation or allowance than shall be equal to the difference between the full amount thereof, and the amount of the salary and emoluments of the office in which he may be hereafter placed.

CLAUSE (Q.)
Records of the several Courts abolished to be kept as heretofore until otherwise provided for.

And be it further Enacted, That the Records of the several Courts abolished by this Act shall, until otherwise provided by law, be kept by the same persons and in the same places as before the passing of this Act.

Provided

CLAUSE (R.)
Not to affect
the rights of
Lessees by
Patent before
the passing of
this Act.

5 Provided always, and be it further Enacted, That nothing in this Act contained shall be taken to affect the right of any lessee by patent under the Crown, to any portion of the money paid upon fines and recoveries which he was entitled to receive before the passing of this Act, but that the same shall be paid and payable by the proper officer of the Court of Common Pleas, who shall receive the same, to such lessee or his agent in like manner and to the same extent as heretofore, during the continuance of his term.

CLAUSE (S.)
Lord Chan-
cellor may
appoint Trus-
tees for Char-
itable Uses in
lieu of Judges
abolished by
this Act.

10 And be it further Enacted, That in all cases where any trust for charitable uses or of a public nature, shall have been cast upon the Judges of the Courts hereby abolished by virtue of their offices, it shall be lawful for the Lord High Chancellor or Keeper of the Seals for the time being, or for the Judges of Assize upon their circuits in the county of *Chester* or principality of *Wales*, to appoint such other trustee or
15 trustees as they shall think fit by any writing under their hands, in place of the former Judge or Judges, which trustee or trustees so named shall have the same power and authority, and be subject to the same rules and duties, as the trustee or trustees for whom he or they may be substituted.

CLAUSE (Z.)
When Quarter
Sessions are
to be held.

20 AND whereas the general quarter sessions of the peace are now directed to be held in each year in the first week after the eleventh of October, in the first week after the Epiphany, in the first week after the clause of Easter, and in the first week after the translation of St. Thomas the Martyr : AND whereas it will be expedient that the times of holding the
25 general quarter sessions of the peace should be altered in part ; BE it therefore Enacted, That from and after the passing of this Act, the Justices of the peace in every county riding or division for which quarter sessions of the peace by law ought to be held, shall hold their general quarter sessions of the peace in the first week after the eleventh of Octo-
30 ber, in the first week after the twenty-eighth of December, in the first week after the thirty-first of March, and in the first week after the twenty-fourth of June ; and that all acts, matters and things done, performed and transacted at the times appointed by this Act for the holding of the general quarter sessions of the peace shall be as valid and binding, to all intents and purposes, as if the same had been done performed and transacted at general quarter sessions of the peace holden at the times by law limited for the holding thereof before the passing of this Act.

11 GEO. IV.—Sess. 1830.

A

B I L L

[AS AMENDED ON SECOND RE-COMMITMENT]

For the more effectual Administration of Justice
in *England and Wales*.

Ordered, by The House of Commons, to be Printed,
27 May 1830.

5 July 1830.



A

B I L L

[AS AMENDED ON THIRD RE-COMMITMENT]

For the more effectual Administration of Justice
in *England* and *Wales*.

N. B. *The Clauses marked (C. and D.) were added by the Committee ;
the Clauses marked (E. & F. & K. to S.) on the Re-commitment ;
the Clauses marked (T. to Z.) on the Second Re-commitment ;
and the Clauses marked (A a. to E e.) on the Third Re-commitment.*

W^H~~E~~^R~~E~~^E~~A~~^S the appointment of an additional Puisne Judge
to each of His Majesty's Superior Courts of Common Law
would cause much greater facility and despatch of Business therein :
AND whereas it is expedient to put an end to the separate Jurisdiction
for the County Palatine of *Chester* and the Principality of *Wales* ; and
to make more effectual provision for the Administration of Justice in
England and *Wales* ; ~~BE it therefore Enacted~~, by The KING's
most Excellent MAJESTY, by and with the advice and consent of the
Lords Spiritual and Temporal, and Commons, in this present Parlia-
ment assembled, and by the Authority of the same, THAT whenever
His Majesty shall be pleased to appoint an additional Puisne Judge to
each of His Courts of the King's Bench, the Common Pleas, and the
Exchequer, the Puisne Judges of each Court shall sit by rotation in each
Term, or otherwise, as they shall agree amongst themselves, so that no
greater number than Three of them shall sit at the same time in banc
for the transaction of business in Term.

Preamble.

Puisne Judges
to sit in rota-
tion.

And be it further Enacted, That from and after the appointment of
an additional Judge to each of the said Courts of King's Bench, Common
Pleas and Exchequer, there shall be issued and paid and payable out of
and charged upon the Consolidated Fund of the United Kingdom of *Great*
Britain and *Ireland* (after paying or reserving sufficient to pay all such
sums as have been directed by any former Act of Parliament to be paid out

CLAUSE (E.)
Salaries to
additional
Judges.

of the same, but with preference to all other payments which shall hereafter be charged upon the same,) the sum of Five thousand pounds to each such additional Judge as he shall be so appointed, as and for a yearly salary, to be paid from time to time quarterly, free and clear from all taxes and deductions whatsoever, on the fifth day of January, the fifth 5 April, the fifth day of July, and the tenth day of October, by equal portions, the first payment to be made on the first of such days respectively as shall occur after the appointment of the Judge entitled to receive the same; and that if any person hereafter appointed to such office shall die or resign the same, the executor or administrator of the 10 person so dying, or the person so resigning, shall be entitled to receive such proportionable part of the salary aforesaid as shall have accrued during the time that such person shall have executed such office since the last payment, and that the successor of any such person so dying or resigning shall be entitled to receive such portion of the salary as 15 shall be accruing or shall accrue from the day of such death or resignation.

CLAUSE (F.)
Retirement
Allowances to
additional
Judges.

And be it further Enacted, That upon the resignation of any such additional Judge, it shall be lawful for His Majesty, by His letters patent under the great seal of *Great Britain*, to give and grant to the 20 person so resigning (under and subject to the same conditions limitations and restrictions as any annuity, on resignation, can now by law be granted to any other Judge of the same Court,) an annuity during his life not exceeding the sum of Three thousand five hundred pounds yearly, or such other sum as shall by any Act hereafter to be made, 25 provided for Judges resigning their offices, to be paid and payable out of and charged upon the Consolidated Fund aforesaid, free and clear of all taxes and deductions whatsoever, by even quarterly payments to be made respectively on the days aforesaid in each year.

Additional
Judges may
sit in London
and Westminster.

And be it further Enacted, That every Judge of the said Courts, to 30 whatever Court he may belong, shall be and he is hereby accordingly authorized to sit in *London* and *Middlesex*, for the trial of Issues arising in any of the said Courts, and to transact such business at chambers or elsewhere, depending in any of the said Courts, as relates to matters over which the said Courts have a common jurisdiction, and as may, 35 according to the course and practice of the Court, be transacted by a single Judge.

Repeal of
Act 3 G. IV.

And be it further Enacted, That a certain Act, passed in the third year of His present Majesty's reign, intituled, "An Act to repeal an 40 " Act of the first and second years of His present Majesty, for facilitating the despatch of Business in the Court of King's Bench, and to " make further provision in lieu thereof," shall be and the same is hereby Repealed, except so far as it repeals the said former Act.

And

Terms altered.

And be it further Enacted, That from and after the commencement of this Act Michaelmas Term shall begin on the second, and end on the twenty-fifth day of November; Hilary Term shall begin on the eleventh, and end on the thirty-first day of January; Easter Term shall begin on the fifteenth day of April, and end on the eighth day of May; and Trinity Term shall begin on the twenty-second day of May, and end on the twelfth day of June; and that the Essoign and Return days of each Term shall be fixed by the Judges until further provision be made by Parliament, with the same relation to the commencement of each Term as they now bear, and shall be distinguished by the day of the Term on which they respectively fall, the Monday being in all cases substituted for the Sunday, when it shall happen that the day would fall on Sunday, except always that in Easter Term there shall be but four Returns instead of five, the last being omitted; provided that if the whole or any number of the days intervening between the Thursday before and the Wednesday next after Easter day shall fall within Easter Term, no business of the Term, excepting such as may be done before a single Judge at chambers, shall be transacted on Good Friday, or on the Saturday, Monday or Tuesday following, but the Term shall in such case be prolonged and continue for such number of days of business as shall be equal to the number of the days before mentioned, exclusive of Easter day falling within the Term, and the commencement of the ensuing Trinity Term shall in such case be postponed, and its continuance prolonged for an equal number of days of business.

And be it further Enacted, That not more than Twenty-four days, exclusive of Sundays, after Michaelmas, Hilary, and Trinity Terms, nor more than Six days, exclusive of Sundays, after Easter Term, to be reckoned consecutively immediately after each Term respectively, shall be appropriated to Sittings in *London* and *Middlesex* for the trial of Issues of fact arising in any of the said Courts; provided that if any trial at bar shall be directed by any of the said Courts, it shall be competent to the Judges of such Court to appoint such day or days for the trial thereof as they shall think fit; and the time so appointed, if in vacation, shall for the purpose of such trial be deemed and taken to be a part of the preceding Term.

Limiting time for Sittings.

And be it further Enacted, That writs of error upon any judgment given by any of the said Courts shall hereafter be made returnable only before the Judges or Judges and Barons, as the case may be, of the other two Courts in the Exchequer Chamber, any law or statute to the contrary notwithstanding; that a transcript of the record only shall be annexed to the return of the writ; and the Court of Error, after errors are duly assigned and issue in error joined, shall, at such time as the Judges shall appoint either in Term or vacation, review the proceedings, and

Regulation as to Writs of Error.

and give judgment as they shall be advised thereon ; and such proceedings and judgment, as altered or affirmed, shall be entered on the original record, and such further proceeding as may be necessary thereon shall be awarded by the Court in which the original record remains ; from which judgment in error no writ of error shall lie or be had, 5 except the same be made returnable in the High Court of Parliament.

Judgments to be pronounced in all trials for felonies upon record during sittings, except as herein is excepted.

And be it further Enacted, That upon all trials for felonies or misdemeanors upon any record of the Court of King's Bench, judgment shall be pronounced during the sittings or assizes by the Judge before whom the verdict shall be taken, as well upon the person who shall have 10 suffered judgment by default or confession, upon the same record, as upon those who shall be tried and convicted, whether such persons be present or not in Court, excepting only where the prosecution shall be by information filed by leave of the Court of King's Bench, or such cases of informations filed by His Majesty's Attorney General wherein the 15 Attorney General shall pray that the judgment may be postponed, and the judgment so pronounced shall be indorsed upon the record of *Nisi Prius*, and afterwards entered upon the record in Court as the judgment of the Court, unless the Court shall, within Six days after the commencement of the ensuing Term, grant a rule to shew cause why a 20 new trial should not be had or the judgment amended ; and it shall be lawful for the Judge before whom the trial shall be had either to issue an immediate order or warrant for committing the defendant in execution, or to respite the execution of the judgment, upon such terms as he shall think fit, until the Sixth day of the ensuing Term. 25

CLAUSE (T.)
Judgment may be signed on giving four days notice, by the party entitled.

And be it further Enacted, That in all cases of trials at *Nisi Prius*, the party who shall be entitled to judgment, either of nonsuit or by reason of the verdict of a jury, upon certificate of the Judge before whom the cause shall be tried, of his opinion that the judgment ought to be signed without delay, may upon giving Four days notice to the opposite party 30 proceed to sign such judgment, and to tax his costs thereon, and may within Seven days after such judgment shall be signed, issue execution, unless the adverse party shall within such Seven days have given security to the satisfaction of the officer by whom the costs shall have been taxed, for payment of the amount for which such judgment shall have 35 been signed, within the first Six days of the ensuing term, unless the Court shall otherwise direct ; such security, in the case of a judgment for a plaintiff in ejectment, to extend to such further sum as the officer shall direct, to prevent intermediate spoliation or waste ; and in the case of writs of inquiry, judgment shall be signed in like manner and within 40 the same time, and subject to the like provisions, unless the undersheriff shall certify on the back of the writ of inquiry, that such judgment ought to be delayed until the ensuing term.

And

And be it further Enacted, That any judgment signed in pursuance of the preceding clause, and any execution issued thereon, shall be dated on the day when signed or issued respectively, without reference to any antecedent term, without prejudice to the right of the party affected by any such judgment or execution to apply to the court to set aside the proceedings.

CLAUSE (V.)
Judgment and execution to be dated on day when signed.

And be it further Enacted, That all persons admitted or admissible to practise as attornies in the Courts of King's Bench and Common Pleas shall be admissible in like manner as Attornies of the Court of Exchequer, and be admitted and allowed to practise there as such, upon application to the Barons of that Court, and they are hereby required without being obliged to employ any clerk in Court in the capacity of attorney of the Court of Exchequer, any law or usage to the contrary notwithstanding; and that it shall be lawful for the Barons of the said Court to distinguish by their rules and orders the fees which shall continue to be taken by the sworn and side clerks of the Court for the duties performed as officers of the Court, similar to the duties of the officers of the other superior Courts, from such fees and charges as shall be allowed to be taken by the attornies so admitted to practise, so that the amount of such fees and charges upon the whole do not exceed the amount and rate of such fees and charges as are now allowed upon the taxation of costs.

Attornies of King's Bench or Common Pleas may practise in Exchequer in like manner.

And be it further Enacted, That in all cases relating to the practice of any of the Courts of King's Bench, Common Pleas or Exchequer, in matters over which the said Courts have a common jurisdiction, or of or relating to the practise of the Court of Error before mentioned, it shall be lawful for the Judges of the said Courts jointly, or any eight or more of them, including the Chiefs of each Court, to make general rules and orders for regulating the proceedings of all the said Courts; which said rules and orders so made shall be observed in all the said Courts; and no general rule or order respecting such matters shall be made in any manner, except as aforesaid.

Judges may make rules for regulation of Courts.

And be it further Enacted, That bail shall be justified before a Judge in chambers.

Justification of bail before Judge in Chambers.

And be it further Enacted, That from and after the commencement of this Act, His Majesty's writ shall be directed and obeyed, and the jurisdiction of His Majesty's Courts of King's Bench, Common Pleas, and Exchequer, and of the several Judges and Barons thereof respectively, shall extend and be exercised over and within the county of Chester and the county of the city of Chester, and the several counties in Wales, in like manner to the same extent and to and for all intents and purposes whatsoever as in and over the counties of England, not

Jurisdiction of Courts at Westminster extended to

Counties Palatine, &c.

being counties palatine, any statute heretofore passed to the contrary notwithstanding.

CLAUSE (C.)

Present jurisdiction of Counties Palatine and Principality of Wales to cease.

And be it further Enacted, That all the power, authority and jurisdiction of His Majesty's Court of Session of the said county palatine of *Chester*, and of the Judges thereof, and of His Court of Exchequer of the said county palatine, and of the Chamberlain and Vice Chamberlain thereof, and also of His Judges and Courts of Great Sessions, both in law and equity, in the principality of *Wales*, shall cease and determine, at the commencement of this Act, and that all suits then depending in any of the said Courts, if in equity, shall be transferred to His Majesty's Court of Chancery or Court of Exchequer, as the plaintiff shall think fit, and if in law, to the Court of Exchequer, there to be dealt with and decided according to the practice of those Courts respectively, or of the Court from whence the same shall be transferred, according to the discretion of the Court to which the same shall be transferred, which Court shall, for the purpose of such suits only, be deemed and taken to have all the power and jurisdiction to all intents and purposes possessed before the passing of this Act, by the Court from whence such suit shall be removed.

CLAUSE (D.)

Not to extend to rights of Corporation of Chester.

Provided always, and be it Enacted, That nothing in this Act contained shall be construed to abolish or affect the obligations and duties, or the jurisdiction or rights, now lawfully imposed upon, performed or claimed and exercised by the mayor and citizens of *Chester*, in the courts of the county of the city of *Chester* or otherwise, save and except that such writs of error or false judgment as may now by any charter or usage of the said corporation be brought upon the judgments of the said Courts, or any of them, before any of the Courts abolished by this Act, shall hereafter be issued, as in other cases, from inferior Courts, and be returnable into His Majesty's Court of King's Bench.

Attornies of Courts of Great Sessions allowed to practise, on payment of certain Fees.

And be it further Enacted, That all persons who on or before the passing of this Act shall have been admitted as Attornies and shall then be practising in any of the Courts of Sessions or Great Sessions in the county palatine of *Chester* or in *Wales* respectively, shall be entitled, upon the payment of one shilling, to have their names entered upon a roll to be kept for that purpose in each of the superior Courts of *Westminster*, and thereupon be allowed to practise in such Courts in all actions and suits against persons residing, at the commencement of the suit, within the county of *Chester* or principality of *Wales*; and that all persons having served or now actually serving as clerks to such attornies under articles, and who would otherwise be entitled to be admitted as attornies of the said Courts of Great Sessions, may on or before the expiration of Six months after the passing of this Act be admitted as attornies of the said Courts at *Westminster*, for the purpose of practising there, in the like matters only,

only, without payment of any greater duty than would be now payable by law upon their admission as attornies of such Courts of Great Sessions respectively.

And be it further Enacted, That all Attornies now actually admitted
 5 and practising in any of the said Courts of Sessions or Great Sessions may be admitted as attornies of the said Courts at *Westminster*, in like manner as is now or may be hereafter prescribed for the admission of other persons as attornies therein, upon payment of such sum for duty, in addition to the sum already paid by them in that behalf, as shall,
 10 together with such latter sum, amount to the full duty required upon admission of attornies in the said Courts at *Westminster*; and that all persons having served or now actually serving under articles as clerks to such attornies of any of the said Courts of Sessions or Great Sessions, may at the expiration of their respective times of service be admitted
 15 as attornies of the said Courts at *Westminster*, in like manner, and upon payment of the like duty, as if they had served under articles as clerks to attornies of the last-mentioned Courts.

Attornies of Great Sessions may be admitted as Attornies at Westminster.

And be it further Enacted, That all persons who shall have been duly appointed Commissioners for taking affidavits or Masters Extra-
 20 ordinary in Chancery of any of the Courts abolished by this Act, shall, upon producing his appointment before the Lord Chancellor, or such person as shall by him be appointed to inspect the same, and upon the payment of one shilling, be entitled to have his name inserted in a list to be kept for that purpose of such Masters Extraordinary, and
 25 to exercise within the limits of his existing commission or commissions the same power and authority, and for the same purposes, as if his commission had issued from the High Court of Chancery.

CLAUSE (L.)
 Masters Extraordinary acting in Courts abolished allowed to exercise same powers upon certain conditions.

And be it further Enacted, That from and after the passing of this Act Assizes shall be held for the trial and despatch of all matters,
 30 criminal and civil, within the county of *Chester*, and the several counties and county towns in the principality of *Wales*, under and by virtue of commissions of Assize, Oyer and Terminer, Gaol Delivery and Nisi Prius, to be issued in like manner and form as hath been usual for the counties in *England*; and all laws and statutes now in
 35 force relating to the execution of such commissions, when issued for counties in *England*, shall extend and be applied to the execution of the commissions issued for the county of *Chester* and the counties of *Wales*, under the authority of this Act.

Assizes to be held in Chester and Wales.

Counties in Chester and Wales may be combined.

And be it further Enacted, That, until it shall be otherwise provided by law, one of the two Judges appointed to hold the Sessions
 40 of Assizes under His Majesty's Commission within the county of *Chester* and principality of *Wales*, shall in such order and at such times as they shall

CLAUSE (W.)
 Mode of holding Assizes in Chester and Wales until His Majesty shall otherwise direct.

shall appoint, proceed to hold such Assizes at the several places where the same have heretofore been most usually held within *South Wales*; and the other of such Judges shall proceed to hold such Assizes at the several places where the same have heretofore been most usually held in *North Wales*, and both of such Judges shall hold the Assizes in and for the county of *Chester*, in like manner as in other counties of *England*. 5

CLAUSE (X.)

As to rendering in discharge of bail, defendant not being in custody.

And be it further Enacted, That a defendant who shall have been held to bail upon any mesne process issued out of any of His Majesty's superior courts of record, may be rendered in discharge of his bail, either to the prison of the court out of which such process issued, according to the practice of such court, or to the common gaol of the county in which he was so arrested, and the render to the county gaol shall be effected in the manner following; that is to say, the defendant or his bail, or one of them, shall for the purpose of such render obtain an order of a Judge of one of His Majesty's superior courts of Westminster, and shall lodge such order with the gaoler of such county gaol, and a notice in writing of the lodgment of such order, and of the defendant's being actually in custody of such gaoler, by virtue of such order, signed by the defendant or the bail, or either of them, or by the attorney or agent of any or either of them, shall be delivered to the plaintiff's attorney or agent, and the sheriff or other person responsible for the custody of debtors in such county gaol shall on such render, so perfected, be duly charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from liability as such. 10 15 20 25

CLAUSE (Y.)

As to rendering in discharge of bail, defendant being already in custody.

And be it further Enacted, That a defendant who shall hereafter be in custody of the gaoler of the county gaol of any county in *England*, or in the principality of *Wales*, by virtue of any proceeding out of any of His Majesty's superior courts of record, may be rendered in discharge of his bail in any other action depending in any of the said courts, in the manner hereinbefore provided for a render in discharge of bail; and the keeper of such gaol, or such sheriff or other person, responsible for the custody of debtors as aforesaid, shall on such render be duly charged with the custody of such defendant, and the said bail shall be thereupon wholly exonerated from liability as such. 30 35

CLAUSE (M.)

Upon termination of office of Welsh Judges their salaries to be retained and form part of Consolidated Fund.

And be it further Enacted, That the salaries of the Judges of the county palatine of *Chester*, and of the Judges of the several Courts of Great Sessions in the principality of *Wales*, shall, upon the termination of the said offices respectively, make part of the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland*, and a sum equal to the amount of each such salary shall be retained in the Exchequer, as part of the Consolidated Fund, and no part thereof shall be issued or carried to the account of the Civil List; any thing in any Act or Acts of Parliament to the contrary notwithstanding. 40

And

CLAUSE (N.)
Compensation
to Welsh
Judges on
abolition of
their offices.

AND whereas it is expedient that due provision should be made for the compensation of the Judges hereinafter mentioned, and of other persons having a freehold in their offices in the county of *Chester* or principality of *Wales*, for the losses they may sustain by the abolition of their offices, or reduction of their fees by virtue of this Act; BE it therefore Enacted, That from and after the commencement of this Act, there shall be issued, paid and payable out of and charged upon the Consolidated Fund of the United Kingdom of *Great Britain and Ireland* (after paying or reserving sufficient to pay all former charges thereon, but in preference to any charge hereafter to be made) to *Thomas Jervis*, esquire, now one of His Majesty's Justices of the *Chester* circuit, the sum of One thousand and fifteen pounds twelve shillings; to *Jonathan Raine*, esquire, now His Majesty's Chief Justice of the *North Wales* circuit, the sum of One thousand pounds; and to *Robert Matthew Casberd*, esquire, one of His Majesty's Judges of the *Brecon* circuit, the sum of One thousand pounds; the said several sums to be payable and paid, free and clear from all taxes and deductions whatsoever, by even portions on the fifth days of January, April and July, and the tenth day of October in each year, the first payment thereof to commence and be made on the first of such days as shall occur after the commencement of this Act; and the said annuities respectively to continue during the lives of the parties respectively entitled to receive the same, or until such time as they may respectively be appointed by His Majesty to any other place or office, the salary or emoluments of which shall be of equal or greater amount than the said annuities respectively; or in case the salary or emolument of such office shall be of less yearly amount than the annuity which the party appointed to such office is entitled by this Act to receive, then the said annuity to be abated and reduced in proportion to the amount of such salary or emoluments, so as to make the whole sum received by the party equal to but not exceeding the amount of such annuity.

CLAUSE (O.)
Compensation to persons affected by abolition of the Courts of *Wales* and *Chester*.

And be it further Enacted, That there shall in like manner, after the commencement of this Act, be issued paid and payable out of and charged upon the said Consolidated Fund (after paying and reserving as aforesaid, and with such preference as aforesaid) to the several persons having a freehold interest in such offices in the county of *Chester* or principality of *Wales*, as shall be abolished or affected by virtue of this Act, free and clear of all taxes and deductions whatsoever, such sums of money at such times, by way of annuity or otherwise, as shall be adjudged and determined to be due to such persons respectively by any commission to be appointed by His Majesty, or by virtue of any Act of Parliament, for the purpose of determining the amount of the compensation that ought to be due and payable in such cases; and that in the mean time and until compensation shall be awarded and determined in

manner aforesaid, or the time shall have elapsed that may be appointed for claiming the same, it shall be lawful for the Commissioners of His Majesty's Treasury, of the United Kingdom of *Great Britain* and *Ireland*, or any three of them, to issue their warrants for the payment to such persons as aforesaid, out of the said Consolidated Fund, of such half-yearly or quarterly allowances as to the said Commissioners shall seem reasonable, both as to the amount and times of payment on account of such compensation, as may thereafter be awarded to the said parties respectively. 5

CLAUSE (P.)

Persons appointed to their offices about to be abolished, under certain restrictions not entitled to compensation.

Provided always, and be it further Enacted, That no person shall be entitled to such compensation or allowance as aforesaid, whose appointment to his office was qualified by any condition or reservation expressed in his patent, or otherwise made known to such person, that such office, or the emoluments thereof, were to be held and enjoyed, subject to any future provision to be made by Parliament touching the same, or without any claim to compensation in case the same should cease, or be subjected to any regulation : And provided also, That no person shall be entitled to receive any such compensation or allowance who shall not previously make a full and true statement to the said Commissioners of His Majesty's Treasury, to be verified on oath before a Judge or Master in Chancery, if they shall think fit so to direct, of the amount of the salary, fees and emoluments of such office, and of the disbursements and outgoings of the same for the space of Ten years before the passing of this Act ; and that such compensation or allowance shall cease altogether, or be reduced in amount, as the case may be, whenever the party entitled to receive the same shall be placed in any other public office, of which the salary and emoluments shall be equal to the whole or to part of such compensation or allowance, so that in the last-mentioned case no person shall be entitled to receive more of such compensation or allowance than shall be equal to the difference between the full amount thereof, and the amount of the salary and emoluments of the office in which he may be hereafter placed. 10 15 20 25 30

CLAUSE (Q.)

Records of the several Courts abolished to be kept as heretofore until otherwise provided for.

And be it further Enacted, That the Records of the several Courts abolished by this Act shall, until otherwise provided by law, be kept by the same persons and in the same places as before the passing of this Act ; and that the Court of Common Pleas shall have the like power and authority to amend the records of fines and recoveries passed heretofore in any of the Courts abolished by this Act, as if the same had been levied suffered or had in the Court of Common Pleas : Provided always, That in case of the death of any such person before any other provision shall have been made for keeping such Records, the custody of such Records shall be with the Clerks of the Peace of the several counties to which counties such Records shall respectively belong. 35 40

Provided

Provided always, and be it further Enacted, That nothing in this Act contained shall be taken to affect the right of any lessee by patent under the Crown, or of any pensioner or other person lawfully entitled to any portion of the money payable upon fines and recoveries of manors, lands or tenements in the county of *Chester* or principality of *Wales*, but that the same shall be paid and payable by the proper officer of the Court of Common Pleas, who shall receive the same, to such lessee or other person, or his agent, in like manner and to the same extent as heretofore, during the continuance of his interest therein.

CLAUSE (R.)
Not to affect the rights of Lessees by Patent before the passing of this Act.

- 10 And be it further Enacted, That in all cases where any trust for charitable uses or of a public nature, shall have been cast upon the Judges of the Courts hereby abolished by virtue of their offices, it shall be lawful for the Lord High Chancellor or Keeper of the Seals for the time being, or for the Judges of Assize upon their circuits in the county of *Chester* or principality of *Wales*, to appoint such other trustee or trustees as they shall think fit by any writing under their hands, in place of the former Judge or Judges, which trustee or trustees so named shall have the same power and authority, and be subject to the same rules and duties, as the trustee or trustees for whom he or they may be substituted.

CLAUSE (S.)
Lord Chancellor may appoint Trustees for Charitable Uses in lieu of Judges abolished by this Act.

- And be it further Enacted, That where, by any law charter or usage, any corporate or other officer or person hath been accustomed or ought to take any oath before any of the Judges or other officers, or in any of the Courts abolished by this Act, such officer or person may and shall take the same oath before any Judge during the assizes, or in open court at the quarter sessions in the county where such oath was formerly taken, and such oath being so taken shall have the same force and effect, to all intents and purposes, as if taken before any of the Judges, or in any of the Courts abolished by this Act.

CLAUSE (A a.)
Officers to take the same Oaths before Judges hereby appointed as they did before the Judges of the Courts hereby abolished.

- 30 AND whereas it is expedient that the accounts of the Sheriffs of the county of *Chester* and principality of *Wales*, should be passed, as nearly as circumstances will admit, in the same manner as heretofore; BE it Enacted, That the Clerk of Assize, within Ten days after the conclusion of the Assizes in the county of *Chester* and in each county in *Wales*, shall make out a roll containing the names and places of residence of all persons liable to the payment of any fines, issues, amercements, recognizances, compositions or other sums imposed or forfeited during the preceding assizes, with the sums set opposite to each name, and shall forthwith transmit the same to the Sheriff, with an order upon the Sheriff, signed in the name of one of the Judges of Assize, directing the Sheriff to cause such sums to be levied and recovered from the parties liable to pay the same, which order shall be of the same force and efficacy and be returnable to the same person or persons as any writ or process

CLAUSE (B b.)
Provision for auditing accounts of Sheriffs of county of Chester and principality of Wales.

heretofore issued to the Sheriff for the like purpose, and the Sheriff, upon the receipt thereof, shall proceed to levy the sums in the said roll mentioned, and shall be accountable for the same, and all arrears thereof, in the same manner, at the same time, and to the same officer, and shall pass his accounts before the same officer or officers as he hath been heretofore accustomed. 5

CLAUSE
(C c.)

Attornies
General of
county of
Chester and
Wales to con-
tinue until
His Majesty
shall other-
wise appoint.

And be it further Enacted, That the several persons holding and exercising within the several counties of *Chester* and *Wales* the office of His Majesty's Attorney General, shall, until His Majesty's pleasure shall be otherwise declared, continue (within their several places and counties where they are now entitled to exercise such office) to have in person only, and not by deputy, the same rank, name of office, and the same privileges fees and emoluments which by any law or custom they have hitherto enjoyed and held within their respective counties, save and except such fees as would necessarily cease with the abolition of the courts and jurisdictions abolished by this Act. 10 15

CLAUSE (Z.)

When Quarter
Sessions are
to be held.

AND whereas the general quarter sessions of the peace are now directed to be held in each year in the first week after the eleventh of October, in the first week after the Epiphany, in the first week after the clause of Easter, and in the first week after the translation of St. Thomas the Martyr : AND whereas it will be expedient that the times of holding the general quarter sessions of the peace should be altered in part ; BE it therefore Enacted, That from and after the passing of this Act, the Justices of the peace in every county riding or division for which quarter sessions of the peace by law ought to be held, shall hold their general quarter sessions of the peace in the first week after the eleventh of October, in the first week after the twenty-eighth of December, in the first week after the thirty-first of March, and in the first week after the twenty-fourth of June ; and that all acts, matters and things done, performed and transacted at the times appointed by this Act for the holding of the general quarter sessions of the peace shall be as valid and binding, to all intents and purposes, as if the same had been done performed and transacted at general quarter sessions of the peace holden at the times by law limited for the holding thereof before the passing of this Act. 20 25 30

CLAUSE
(E e.)

Commence-
ment of Act.

And be it Enacted, That this Act shall commence and take effect upon and from the Twelfth day of October in this present year. 35

CLAUSE
(D d.)

Landlords to
recover pos-
session of
Lands, &c.
after notice
of ejectment.

AND whereas landlords, to whom a right of entry into or upon any lands or hereditaments may accrue during or immediately after Hilary and Trinity Terms respectively, are at present unable to prosecute ejectments against their tenants, so as to try the same at the assizes immediately ensuing, whereby much delay is occasioned in the recovery of the possession of lands and tenements wrongfully withheld by tenants against 40

55

against their landlords; BE it therefore Enacted, That in all actions of
ejectment hereafter to be brought in any of His Majesty's Courts at
Westminster by any landlord against his tenant, or against any person
claiming through or under such tenant for the recovery of any lands or
hereditaments, where the tenancy shall expire, or the right of entry into
5 or upon such lands or hereditaments shall accrue to such landlord in
or immediately after Hilary or Trinity Terms respectively, it shall be
lawful for the lessor of the plaintiff in any such action, at any time within
Ten days after such tenancy shall expire or right of entry accrue as
10 aforesaid, to serve a declaration in ejectment entitled of the term in
which the same may be delivered, or if delivered in vacation, of the term
immediately preceding, with a notice thereunto subscribed, requiring the
tenant or tenants in possession to appear within Ten days to such decla-
15 ration the defendant shall, within Ten days from the time of the service
of the declaration, enter an appearance, and plead in the form and other-
wise according to the practice of the court in which such action shall be
brought, and issue shall be thereupon joined (the lessor of the plaintiff
giving to the defendant at least Six clear days notice of trial before the
20 commission day of the assizes at which such ejectment is intended to be
tried), and proceedings shall be had in such and the same manner as if
such declaration had been duly served before and appearance entered
in the preceding term; and in case of default in appearance and
pleading as aforesaid, it shall be lawful for the Judge of such assize, at
15 any time after the opening of the commission, upon the application of the
lessor of the plaintiff in such action, to order judgment therein to be
signed against the casual ejector, and upon such judgment being
signed, it shall be lawful forthwith to issue execution thereon; and
further, that any judgment so signed, and any execution issued thereon,
20 shall be dated on the day when signed or issued respectively, without
reference to any antecedent term: Provided always, That any de-
fendant in such action may at any time before the trial thereof apply
to a Judge of either of His Majesty's superior Courts at *Westminster*, by
summons in the usual manner, for time to plead or for postponing the
trial until the next assizes, and that it shall be lawful for the Judge in
his discretion to make such order in the said cause as to him shall seem
expedient.

1 WILL. IV.—Sess. 1830.

A

B I L L

[AS AMENDED ON THIRD RE-COMMITMENT]

For the more effectual Administration of Justice
in *England* and *Wales*.

*Ordered, by The House of Commons, to be Printed,
5 July 1830.*

27 May 1830.

61



A

B I L L,

INTITULED,

AN ACT for further facilitating the Administration of
Justice in Suits and other Proceedings in Equity.

N. B.—*The Figures in the Margin denote the Number of Presses in the
Ingrossment.*

WH **H** **E** **R** **E** **A** **S** it is expedient to make further Provision for
the Administration of Justice in Suits and other Proceed-
ings in Equity ; **B****E** **i**t **t**h**e**r**e**f**o**r**e** **E**n**a**ct**e**d, by The KING's most
Excellent MAJESTY, by and with the advice and consent of the Lords
Spiritual and Temporal, and Commons, in this present Parliament
assembled, and by the Authority of the same, THAT it shall be
lawful for His Majesty, His heirs and successors, to nominate and
appoint from time to time, by Letters Patent under the Great
Seal of the United Kingdom, a fit person, being a Barrister at Law
of years standing at the least, to be an additional Judge
of the High Court of Chancery, to hold such office during his good
behaviour.

His Majesty
may appoint
an additional
Judge of the
High Court
of Chancery.

And be it further Enacted, That such Judge shall have full
power, subject to such orders and regulations as may be made in
pursuance of this Act, to hear and determine all Causes and Matters
at any time depending in the High Court of Chancery, of such
nature and kind as may according to the course and usage of the
said Court be heard and determined by the Master of the Rolls,
and all Pleas and Demurrers filed in such Causes, and to make
Orders and Decrees therein and relating thereto; and all Orders and
Decrees so made by such Judge shall be deemed and taken to be
respectively Orders and Decrees of the High Court of Chancery,
and shall have force and validity, and be executed accordingly;

Power to hear
and determine
Causes, &c.
depending in
the Court of
Chancery.

subject nevertheless in every case to be reversed, discharged or altered by the Lord Chancellor ; and provided that no such Orders or Decrees shall be enrolled until the same shall have been signed by the Lord Chancellor.

Sitting of the Judge.

And be it further Enacted, That such Judge shall sit in a separate Court, and shall be attended by the Registers and other Officers of the High Court of Chancery, as may appear to the Lord Chancellor to be proper and convenient ; for which purpose the Lord Chancellor shall have full power and authority to make such orders and give such directions as may be from time to time required.

The Lord Chancellor to regulate the Entries for hearing, &c.

And be it further Enacted, That the Lord Chancellor shall have full power and authority to make such Orders and Regulations as may appear to him to be from time to time necessary and convenient, to provide for and regulate the entry for hearing, before such Judge, of any such Causes, matters or things as such Judge is hereby authorized and empowered to hear and determine.

3

Rank of the Judge.

And be it further Enacted, That such Judge shall have rank and precedence next after the Lord Chief Baron of His Majesty's Court of Exchequer.

Such Judge not to be empowered to reverse or alter any Decree, &c. of the Lord Chancellor, or Master of the Rolls, or Vice-Chancellor.

Provided always, and be it further Declared and Enacted, That such Judge shall have no power or authority to discharge, reverse or alter any Decree, order, act, matter or thing made or done by any Lord Chancellor, unless authorized by the Lord Chancellor so to do ; and that such Judge shall have no power or authority to discharge, reverse or alter any Decree, order, act, matter or thing made or done by any Master of the Rolls or Vice-Chancellor of *England*.

Judge to have a Secretary, &c.

And be it further Enacted, That it shall be lawful for His Majesty, His heirs and successors, in and by such letters patent as aforesaid, or any other letters patent under the Great Seal of the United Kingdom, to direct that such Judge shall have a Secretary, Trainbearer, and Usher.

Judge may be removed.

Provided always, and be it further Enacted, That it shall be lawful for His Majesty, His heirs and successors, to remove any such Judge from his office, upon an Address of both Houses of Parliament.

OATH.

And be it further Enacted, That the said Judge, previous to his executing any of the duties of his office, shall take the following Oath,

4

Oath, which the Lord Chancellor is hereby authorized and required to administer; *videlicet*,

“ I do solemnly and sincerely promise and swear,
 “ That I will duly and faithfully, and to the best of my skill
 “ and power, execute the office of a Judge of the High Court
 “ of Chancery. “ So help me GOD.”

Provided always, and be it further Enacted, That if, upon the said office at any time hereafter becoming vacant, it shall appear to His Majesty, His heirs or successors, unnecessary or inexpedient, by reason of the state of the business then depending in the High Court of Chancery, that any further appointment should be made in pursuance of this Act, the said office may from thenceforth be altogether discontinued by such Order or Orders as His Majesty, by the advice of His Privy Council, shall think fit to make for that purpose.

In case of Vacancy in the said Office, His Majesty may discontinue the same, if He thinks fit.

And be it further Enacted, That the Powers and Authorities given by this Act to the Lord Chancellor, shall and may be exercised in like manner by and are hereby given to the Lord Chancellor, Lord Keeper, or Lords Commissioners for the Custody of the Great Seal of the United Kingdom for the time being.

Powers given to the Lord Chancellor, may be exercised by the Lord Keeper, &c.

11 GEO. IV.—Sess. 1830.

A

B I L L,

INTITULED,

AN ACT for further facilitating the Administration of Justice in Suits and other Proceedings in Equity.

*Ordered, by The House of Commons, to be Printed,
27 May 1830.*

65

28 April 1830.



(Ireland.)

A

B I L L

To facilitate the Administration of Justice in
the Court of Quarter Sessions in the City of
Dublin.

WH **H**EREBY by an Act passed in the Parliament of *Ireland*
in the thirty-third year of the reign of his late Majesty King
George the Second, intituled, "An Act for the better regulating the
" Corporation of the City of *Dublin*, and for extending the power of
5 " the Magistrates thereof, and for other purposes relative to the said
" City," it is amongst other things enacted, That the Lord Mayor of
the said city and two Justices of the peace, or the Recorder of the said
city and two Justices of the peace, may and shall constitute and be a
sufficient quorum for holding the Sessions of the Peace for the said
10 city, and they are hereby authorized and empowered to hear and deter-
mine all matters and things which the Lord Mayor of the said city and
three Justices of the peace, or the Recorder and three Justices of the
peace, then were authorized to hear and determine :

Preamble :
Irish Act,
53 Geo. 2.
c. 16. § 19
appointing
the Lord
Mayor and
two Justices
a quorum of
the Dublin
Sessions.

AND whereas the Lord Mayor of the said city of *Dublin*, in conse-
15 quence of the numerous duties belonging to his said office of Lord Mayor,
cannot regularly or constantly preside in the said court of Quarter Ses-
sions ; and the attendance at such sessions of the Aldermen of the said
city, who are by the Act constituted Justices of the peace for the said
city, is frequently productive of great inconvenience, to which it is not
20 reasonable that such Justices should be exposed, and the business of the
said court has been sometimes delayed by the absence of such Justices ;

Their attend-
ance pre-
vented by
other duties.

BE it therefore Enacted, by The KING's most excellent MAJESTY,
by and with the advice and consent of the Lords Spiritual and Temporal,
327. and

The Recorder of the City empowered to hold the Sessions and preside alone.

and Commons, in this present Parliament assembled, and by the Authority of the same, **THAT** the Recorder of the said city of *Dublin*, or his deputy, such deputy being a barrister at law, shall, from and after the day of next have full power and authority to hold the said General Quarter Sessions of the peace for the said city and county of the city of *Dublin*, and to preside thereat, or at any adjournment thereof, and to hear and determine all offences matters and things now cognizable by or before the Lord Mayor and two Justices of the said city, or by or before the Recorder and two Justices of the said city, whether by virtue of any charter or statute, or of any commission of oyer and terminer or other authority whatsoever, as fully and effectually to all intents and purposes as the same are now cognizable by or before the said Lord Mayor and two Justices of the said city, or by or before the Recorder and any two Justices of the peace of the said city.

15

Proviso for the rights of the Lord Mayor and Justices.

Provided always, and be it Enacted, That nothing herein contained shall be deemed, construed or taken in any manner to prevent or hinder the Lord Mayor or any Justice of the peace of the said city for the time being, from attending and presiding at the said Court of Quarter Sessions or at any adjournment thereof, or from doing any duty or from exercising any right or function which such Lord Mayor or Justice would or might or could do as such Lord Mayor or Justice before the making of this Act.

§ 85 of Prison Act, 50 G. 3. c. 103. as to Fees on Trials of Criminals in Dublin and County, and presentments for them under 49 Geo. 3. c. 101. § 3.

AND whereas by an Act passed in the fiftieth year of the reign of his late Majesty King *George* the Third, intituled, “ An Act for “ repealing the several Laws relating to Prisons in *Ireland*, and for re- “ enacting such of the provisions thereof as have been found useful, “ with amendments,” it is amongst other things enacted and declared, That all fees on criminal prosecutions, and the several other matters relating thereto, payable to any clerk of the Crown, clerk of the peace, or any of their deputies, sheriff or under-sheriff, gaoler or under-gaoler or turnkey, or crier or other person acting under them or any of them, in *Ireland*, are and shall be payable in the county of *Dublin* and county of the city of *Dublin*, in the same manner in all respects as in the other counties of *Ireland*; and that in the said county of *Dublin*, presentments in lieu of the fees of such persons as shall have been indicted, tried, acquitted and discharged without paying fees, shall be made at the presenting terms, in like manner in all respects as at the assizes in the other counties of *Ireland* under and by virtue of an Act of the forty-ninth year of his said late Majesty, for regulating the fees payable by persons charged with treason, felony and all other offences at the assizes and quarter sessions in *Ireland*, or any other Act or Acts for such purposes : **AND** whereas by an Act passed in the seventh year of his present Majesty, intituled, “ An Act for consolidating and amending the Laws “ relating

Act 50 G. 3. c. 103, wholly repealed by 7 G. 4. c. 74. § 1.

“ relating to the Prisons in *Ireland*,” the said Act of the fiftieth year of his said late Majesty was wholly repealed, but such repeal, so far as the same affected the provisions of the said Act of the fiftieth year of his late Majesty, hereinbefore recited, was extended further than was necessary ;

- 5 **BE** it therefore Enacted, That so much of the said Act of the fiftieth year of his late Majesty’s reign as is hereinbefore recited and set forth, shall be and the same is hereby revived, and that all matters and things done, committed and presented at any time since the passing of the said Act of the seventh year of His present Majesty, and which could or
- 10 might have been done pursuant to or under the authority of the said provision, if not repealed, shall be and be deemed to be as good valid and effectual to all intents and purposes whatsoever as if the said provision hereinbefore mentioned had not been repealed.

§ 85 of 50 G.3.
c. 105. shall
be revived ;
and all matters
done under it
declared valid.

11 Geo. IV.—Sess. 1830.

(Ireland.)

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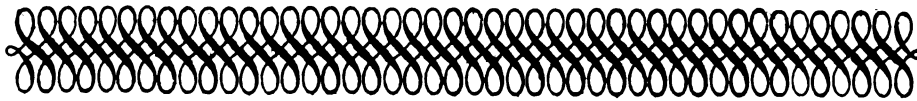
B I L L

To facilitate the Administration of Justice in
the Court of Quarter Sessions in the City
of *Dublin*.

*Ordered, by The House of Commons, to be Printed,
28 April 1830.*

3 June 1830.

69



A

B I L L

To regulate the Office of Register and Keeper
of the Register and Registers of the High
Court of Chancery.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

WH ~~H E R E A S~~ it is expedient to make further regulations with regard to the Office of Register and Keeper of the Register and Registers of the High Court of Chancery, and the Duties of the Sub or Deputy Registers and others employed in the said Office;
5 ~~BE~~ it therefore ~~Enacted~~, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Office of Register and Keeper of the Register and Registers of the High Court of Chancery, as the
10 said office hath heretofore existed, shall from and immediately after the *passing of this Act* cease and determine; and that there shall hereafter be Six Registers of the said Court, for the execution of the office of Register and the duties of the four Sub or Deputy Registers of the said Court, as the same have heretofore existed; and that Thomas Raynsford, Francis B. Bedwell, J. C. Fry, and E. D. Colvile, the present
15 Sub or Deputy Registers of the said Court, shall be four of such Registers; and that it shall be lawful for the Lord Chancellor, by writing under his hand and seal, to appoint two fit and proper persons, being barristers at law of _____ years standing at the least, to be two others of the said Registers; and on the death, resignation or removal of any of them the said Thomas Raynsford, Francis B. Bedwell, J. C. Fry, E. D. Colvile, and the said two persons so to be appointed as afore-

Preamble.

Office of Register and Keeper of Registers of the Court of Chancery, as at present existing, to cease, and six Registers to be appointed for the execution of the office of Register and the duties of the Deputy Registers.

Appointment of Registers in case of Vacancies.

487. A said,

said, it shall be lawful for the Lord Chancellor to appoint in manner
aforesaid, a fit and proper person, being a barrister at law of
years standing at the least, to be a joint Register of the said Court with
the others of such Registers ; and so on subsequent death, resignation
or removal of any Register, a new Register, duly qualified as aforesaid, 5
shall be in like manner appointed in his place, who shall be likewise a
joint officer with such other persons as shall be or shall have been
appointed in that behalf ; and all such persons appointed by or under
and by virtue of this Act to be Registers, shall be joint Registers of the
said Court, and shall hold their said respective offices during good 10
behaviour respectively, and shall be authorized and empowered, and are
hereby required personally to do and perform all such matters and
things in the execution of the said office, as belong or appertain to the
office of Register and the duties of Sub or Deputy Registers of the
said Court. 15

In case of Ill-
ness, Register
may appoint a
Deputy, to be
approved by
the Lord
Chancellor.

Provided always, and be it further Enacted, That in case of illness,
it shall be lawful for any such Registers to appoint a deputy, such deputy,
and also the occasion for such appointment, to be first approved by
the Lord Chancellor, upon a petition verified by affidavit, for such
time and under such regulations as shall be directed by the Lord Chan- 20
cellor ; and no such appointment of a deputy shall continue for any
longer time than shall be allowed and specified in and by the Order
which shall be made by the Lord Chancellor upon such petition.

Register to
take an Oath.

And be it further Enacted, That every Register appointed under and
by virtue of this Act, shall previously to his executing any of the 25
duties of his office, take, repeat and subscribe, before the Lord Chan-
cellor, an Oath in the form following (that is to say)

“ I, A. B. do solemnly swear, That I will, to the best of my
“ knowledge, skill and judgment, execute and perform the
“ duties of one of the Registers of the High Court of Chan- 30
“ cery ; and that I will not, directly or indirectly, ask or
“ demand or accept or receive any gift, fee, reward, gratuity
“ or remuneration other than such as shall be legally due to
“ and receivable by me as one of the Registers of the said
“ Court ; and that I will in all things relating to my said 25
“ office, conduct myself according to the rules and regulations
“ which shall from time to time be in force for the regulation
“ of such office and of the business thereof.

“ So help me GOD.”

Registers to
take all Fees
hitherto re-
ceived, and
pay the same
into the Bank,

And be it further Enacted, That it shall be lawful for the Registers 40
appointed by or under and by virtue of this Act, and also for the Master
of the Report Office, or as he is sometimes called, the Filer and Keeper
of the Reports and Certificates and Keeper of the Books of Entries, and
likewise

likewise for the Entering Clerks or Clerks of the Entries, and they are hereby respectively authorized and required to receive and take all fees hitherto of right received and taken in the office of Register of the High Court of Chancery, by the Register, the Sub or Deputy Registers, and the clerks to the said Sub or Deputy Registers, and the Master of the Report Office, or Filer and Keeper of the Reports and Certificates and Keeper of the Books of Entries, and the Entering Clerks or Clerks of the Entries respectively; and the amount of all fees so to be received and taken by the said officers respectively shall be paid by them respectively, in such manner and at such times as the Lord Chancellor shall by any Order in that behalf direct, into the Bank of England, in the name of the Accountant General of the High Court of Chancery, to an Account to be intituled, "The Registers' Fund Account;" and for ascertaining the yearly amount of all such fees, the said several officers for the time being shall respectively once in every year, within the first week of Michaelmas Term in each year, deliver into the hands of the Accountant General of the said Court an Account, to be signed and verified on oath by such officers and their clerks respectively, of the amount of fees received by such officers and their clerks respectively in the year ending on the First day of *October* then next preceding.

to an account intituled, The Registers Fund Account.

Account of Fees received to be delivered yearly to the Accountant General.

Provided always, and be it further Enacted, That nothing herein contained shall be deemed or taken to abridge, annul or repeal any of the powers, provisions or enactments contained in an Act passed in the third year of His present Majesty's reign, intituled, "An Act to enable the Judges of the several Courts of Record at Westminster to make Regulations respecting the Fees of the Officers, Clerks, and Ministers of the said Courts."

Nothing herein to abridge the powers of 3 G. 4. c. 69.

And be it further Enacted, That the two annual sums of Five hundred and fifty pounds each, provided for and directed to be paid to the two senior of the Sub or Deputy Registers of the High Court of Chancery for the time being, in and by an Act passed in the forty-ninth year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act for making provision for such of the Sub-Registers of the High Court of Chancery as, from Age or Infirmary, shall be afflicted with permanent Disability, and be incapacitated from the due execution of their Office, and for making further provision for the two Seniors of the said Register's Office, for the Master of the Report Office, and for providing additional Clerks in the Report Office of the said Court, and for making other payments and regulations in respect of the said Offices," together with the several other annual sums in the said Act provided for and directed to be paid to the clerks in the office of the Register of the said Court for the time being, and to the Entering Clerks of the said Court for the time being, and to four

The several annual sums directed to be paid to the Deputy Registers, Clerks, &c. by 49 G. 3. c. 69, shall cease to be so paid after , and shall be paid into the Bank, and placed to the fund.

additional clerks to be employed in the Report Office of the said Court, as in the said Act is mentioned; and also the five annual sums of One hundred and ten pounds each, provided for and directed to be paid to the Filer and Keeper of the Reports and Certificates and Keeper of the Books of Entries for the time being, and to each of the four Sub or Deputy Registers of the said Court for the time being, as a compensation and in satisfaction for certain expenses for books and stationery and other purposes in the said Act particularly mentioned, shall, from and after the 5 cease to be paid to and received by the respective officers for the time being to whom the said several sums are in and by the said Act respectively directed to be paid, and shall from and after the said 10 be paid by the Governor and Company of the Bank of England, by quarterly payments, into the name of the Accountant-General of the High Court of Chancery, to the said account or fund to be called "The Registers' Fund Account." 15

The annual sum of to be paid to the Registers out of the said account quarterly;

and to the Master of the Report Office, and the several Clerks, such sums as the Lord Chancellor, &c. shall direct.

Compensation to certain Officers for expenses of Stationery, &c.

And be it further Enacted, That from and after the *passing of this Act*, there shall be issued and paid quarterly, during their good behaviour, respectively to each of the six Registers for the time being, out of the said account or fund to be intituled and called "The Registers' Fund Account," the annual sum of 20 and there shall also be issued and paid out of the said fund, to the Master of the Report Office, or Filer or Keeper of the Reports and Certificates and Keeper of the Books of Entries, and to the Entering Clerks or Clerks of the Entries, and to the clerks respectively for the time being in the office of the said Registers, and to the clerks in the Report Office, and the clerks of the said Entering Clerks of the said Court for the time being respectively, such several annual sums as shall appear to the Lord Chancellor, together with the Master of the Rolls and the Vice Chancellor, or together with either of them, to be reasonable and proper, and as they shall from time to time and by any Orders or Order in that behalf made, direct and appoint; and there shall also be issued and paid out of the said fund, to the Filer and Keeper of the Reports and Keeper of the Books of Entries for the time being, and to each of the Registers of the said Court for the time being, such annual sums as the Lord Chancellor, together with the Master of the Rolls and the Vice Chancellor, or together with either of them, shall from time to time direct and appoint to be paid to them respectively, as a compensation for and in satisfaction of all expenses to be in future incurred by them respectively in providing books, stationery, printing, coals, candles, and other necessary articles for their said offices respectively, and in paying any person or persons necessarily attending therein to take care of the same: And for more fully effecting the several purposes aforesaid, it shall be lawful for the Lord Chancellor, together with the Master of the Rolls and the Vice Chancellor, or together with either of 30 35 40 of

of them, and they are hereby authorized, to make such orders and regulations as shall appear to them to be from time to time proper and convenient.

5 Provided always, and be it further Enacted, That whenever any of the said Registers or other persons to whom salaries or allowances are hereby directed to be paid, shall during the course of any quarter resign or quit his respective office or employment, or shall die, then the person so resigning, quitting, or the personal representative of such person so dying (as the case may be) shall be entitled to such proportionate part of such salary as shall have accrued during such part of the said quarter as such person shall have executed the said office; and every Register or other person appointed by or under and by virtue of this Act shall be entitled to have and receive such proportion only of such salary or allowances, payable under and by virtue of this Act, as 15 shall have arisen and accrued from the time of the appointment of such Register or other person respectively.

A proportionate part of the Salary to be paid to any Officer resigning, &c. during the course of any quarter.

And be it further Enacted, That in case any of the said Registers appointed by or under and by virtue of this Act shall perform the duties of the office of Register for the space of years, or 20 in case any of the said Registers shall happen to be afflicted with any permanent infirmity disabling him from the due execution of his office, then and in either of the said cases it shall be lawful for the Lord Chancellor, by Order on petition, to remove from the office of Register any of the said Registers who shall have been years in 25 the said office, or who shall in the judgment of the Lord Chancellor be so afflicted, and to order an annuity or clear yearly sum, not exceeding to any such Register, to be paid out of the said Registers' Fund Account to such Register for his life, by equal quarterly payments, from the period of such his removal from 30 office.

Annuities may be granted to Registers in certain cases.

And be it further Enacted, That the Lord Chancellor, together with the Master of the Rolls and the Vice Chancellor, or together with either of them, shall have full power and authority from time to time to make and issue such rules and regulations with respect to the admission and qualification of clerks to the said Registers as shall appear 35 to them to be necessary and proper; and subject to such rules and regulations, it shall be lawful for the Lord Chancellor to authorize the said Registers requiring to nominate and appoint such clerks as may be from time to time required for the transaction and dispatch of 40 business in their said office.

Regulations to be established as to the admission of Clerks to Registers.

And be it further Enacted, That it shall not be lawful for any Register, or for the Master of the Report Office, or Filer and Keeper 487. B of Registers, &c. not to take any Fees except such as are hereby allowed.

Registers not to take any consideration for the appointment of any Clerk.

of the Reports and Certificates and Keeper of the Books of Entries, to take, demand, accept or receive for his own use, any fee, gratuity or emolument other than such as are by this Act allowed, or as may be from time to time allowed by any Orders or Order to be made under and by virtue of this or any other Act ; and that it shall not be lawful 5 for any Register to take, demand, accept or receive any sum of money or security for money, or to stipulate for or receive any share of the profits and emoluments of the office of clerk to such Register, or to receive any valuable consideration whatsoever as and for a consideration for the appointment of any person whatsoever to the office or place of 10 clerk to such Register.

Clerks taking any Fees not allowed, shall be liable to be removed.

And be it further Enacted, That if any clerk employed in the office of the said Registers, or in the Report Office, shall take, demand, receive or accept for his own use any fee, gift, gratuity or emolument other than such as are by this Act allowed, or as may be from time 15 to time allowed by any Orders or Order to be made under or by virtue of this or any other Act, such clerk so offending shall be liable to be removed from his office by the Lord Chancellor, and shall be incapable for ever thereafter of holding any office under the High Court of Chancery. 20

Lord Chancellor to direct the attendance of Registers.

And be it further Enacted, That the Lord Chancellor shall have full power from time to time to direct upon which of the Judges of the High Court of Chancery the said Registers shall respectively attend.

Compensation to the present Officers.

And be it further Enacted, That it shall be lawful for the Lord 25 Chancellor, together with the Master of the Rolls and the Vice Chancellor, or together with either of them, by such ways and means as to them shall appear to be proper, to inquire or to direct inquiry to be made, whether any and what compensation ought to be made and allowed to the said Thomas Raynsford and Francis B. Bedwell, and to 30 the present Master of the Report Office, or Filer and Keeper of the Reports and Certificates and Keeper of the Books of Entries, and to the present Clerks of the Entries, and present clerks employed in the said Registrar Office, for any loss which may be sustained by them respectively in consequence of the operation and effect of this Act ; and if upon 35 such inquiry it shall appear to the Lord Chancellor, together with the Master of the Rolls and the Vice Chancellor, or together with either of them, that any compensation ought to be allowed to such persons respectively, it shall be lawful for the Lord Chancellor, together with the Master of the Rolls and the Vice Chancellor, or together with either of them, by 40 any Order or Orders to be by them made, to fix the amount of compensation to be paid to such persons respectively, and to direct that such amount shall be from time to time issued and paid by the Accountant-General

General to the respective parties entitled thereto, from and out of the said account or fund to be intituled or called " The Registers' Fund Account."

- 5 And be it further Enacted, That the powers and authorities given by this Act to the Lord Chancellor, the Master of the Rolls, and the Vice Chancellor respectively, shall and may be exercised in like manner and are hereby given to the Lord Chancellor, the Lord Keeper or Lords Commissioners for the custody of the Great Seal of the United Kingdom, the Master of the Rolls, and the Vice Chancellor for the time being respectively.

Powers hereby given to the Lord Chancellor, &c. may be exercised by those for the time being.

11 GEO. IV.—Sess. 1830.

A

B I L L,

To regulate the Office of Register and Keeper
of the Register and Registers of the High
Court of Chancery.

*Ordered, by The House of Commons, to be Printed,
3 June 1830.*

3 June 1830.



7
1

A

B I L L

To regulate the Salaries and Emoluments of the Masters in Ordinary of the High Court of Chancery, and the Clerks employed in the Offices of the said Masters.

WH **HEREAS** in a Report made to The KING's Most Excellent Majesty, by the Commissioners appointed by His Majesty in a Commission under the Great Seal of the United Kingdom, bearing date at Westminster the twenty-sixth day of April in the fifth year of His Majesty's reign, it hath been amongst other things recommended by the said Commissioners, that the Masters in Ordinary of the High Court of Chancery should be in future paid partly by Salaries and partly by Fees, and that the said Masters should cease to receive profit from Copy Money; and that the practice of receiving Gratuities by the Clerks in the offices of the said Masters should be discontinued, and that in lieu thereof a liberal remuneration should be secured to such Clerks, bearing a just proportion to the business actually transacted and performed by them: **AND** whereas it is expedient that such recommendations should be adopted and carried into effect;

Preamble.

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **THAT** from and after the it shall be lawful for the Masters in Ordinary for the time being of the High Court of Chancery, and the Clerks of such Masters respectively, to demand, receive, accept and retain for their own use respectively, all such fees and sums of money as are specified and set forth in the Tables numbered to this Act annexed; and it shall also be lawful for the said Masters for the time being, and the

Masters in Ordinary of the Court of Chancery, and their Clerks, empowered to demand and retain for their own use the Fees set forth in the Tables numbered

and also to demand and receive the Fees in the Tables numbered but which shall be accounted for, and paid into the Bank of England, to an Account intituled "The Masters Fund."

Accounts of Fees to be made up yearly.

Clerks of such Masters respectively, and they are hereby required to demand, receive and take all such fees and sums of money as are specified and set forth in the Tables numbered to this Act annexed; but the amount of all fees and sums of money specified and set forth in the said last-mentioned Tables numbered 5 shall be accounted for and paid by the said Masters for the time being, and their Clerks respectively, in such manner and at such times as the Lord Chancellor shall by any Order in that behalf direct, into the Bank of England, in the name of the Accountant General of the High Court of Chancery, to an account to be intituled and 10 called "The Masters' Fund Account;" and for ascertaining the yearly amount of all fees and sums of money so to be accounted for and paid into the Bank of England as aforesaid, the said Masters for the time being, and their Clerks respectively, shall once in every year, within the week of Michaelmas Term in each year, 15 deliver into the hands of the Accountant General of the said Court accounts, to be signed and verified on oath by such Masters and their Clerks respectively, of the amount of all such fees and sums of money received by such Masters and their Clerks respectively in the year ending on the First day of October then next preceding. 20

Nothing herein to abridge the Powers of 3 G. IV. c. 69.

Provided always, and be it further Enacted, That nothing herein contained shall be deemed or taken to abridge, annul or repeal any of the powers, provisions or enactments contained in an Act passed in the third year of His present Majesty's reign, intituled, "An Act 25
" to enable the Judges of the several Courts of Record at Westminster to make Regulations respecting the Fees of the Officers, Clerks and Ministers of the said Courts."

The annual Sum of

to be paid to the Masters out of the said Account, quarterly;

and such several Sums to the Clerks as the Lord Chancellor, &c. shall direct.

And be it further Enacted, That from and after the there shall be issued and paid quarterly to each 30 of the said Masters for the time being, out of the said account or fund to be intituled and called "The Masters' Fund Account," the annual sum of in addition to the salaries now payable by the said Masters; and there shall also be issued and paid out of the said fund, to the Clerks for the time being in the offices of the said Masters respectively, such several annual sums as 35 shall appear to the Lord Chancellor, together with the Master of the Rolls and the Vice Chancellor, or together with either of them, to be reasonable and proper, and as they shall by any Orders or Order in that behalf made from time to time direct and appoint.

A proportionate part of the Salary to be paid to any Master or Clerk resigning, &c. during the course of any Quarter.

Provided always, and be it further Enacted, That whenever any 40 of the said Masters or their Clerks respectively, to whom any salary may be now payable or is hereby directed to be paid, shall during the course of any quarter resign, or quit or be removed from his respective

29

respective office or employment, or shall die, then the Master or Clerk so resigning, or quitting or being removed, or the personal representative of the Master or Clerk so dying (as the case may be) shall be entitled to such proportionate part of such salary as shall have accrued during such part of the said quarter as such Master or Clerk shall have executed the said office ; and every Master or Clerk who may be hereafter appointed shall be entitled to have and receive such proportion only of such salary as shall have arisen and accrued from the time of the appointment of such Master or Clerk respectively.

And be it further Enacted, That it shall be lawful for the Lord Chancellor, and he is hereby empowered, by such ways and means as to him shall seem fit and proper, to inquire or to direct inquiry to be made into the salaries and emoluments of any of the said Masters, who shall by petition desire such inquiry to be made, in order to ascertain the average annual amount of such salaries and emoluments in the office of such Master during a period of years next preceding the Compensation to the present Masters. and upon the conclusion and result of such inquiry, it shall be lawful for the Lord Chancellor, together with the Master of the Rolls and the Vice Chancellor, or together with either of them, to determine and direct whether any and what annual compensation ought to be made and allowed to such Master, for any loss which may be sustained by him in consequence of the operation and effect of this Act ; and if it shall appear to the Lord Chancellor, together with the Master of the Rolls and the Vice Chancellor, or together with either of them, that any compensation ought to be allowed to such Master, it shall be lawful for them by any Order to be by them in that behalf made, to fix the amount of compensation to be paid to such Master, and to direct that such amount shall be from time to time issued and paid to such Master by the Accountant General of the said Court, from and out of the said account or fund to be intituled and called " The Masters' Fund Account."

AND whereas by virtue of an Act passed in the thirty-second year of the reign of his late Majesty King *George* the Third, intituled, " An Act to empower the High Court of Chancery to lay out a further sum of the Suitors' Money upon proper Securities, and for applying the Interest towards discharging the Expenses of the Office of the Accountant General, and for building Offices for the Masters Ordinary in Chancery, and a public Office for the Suitors of the said Court, and Offices for the Secretaries of Bankrupts and Lunatics, and for building Repositories for securing the Title Deeds of the Suitors of the said Court and the Records and Proceedings of the Commissioners of Bankrupts and Lunatics," and of

32 G. 3. c. 42.

several

488.

several Acts in the said Act mentioned, and of several subsequent Acts, divers sums of money have been, by virtue of several Orders of the said Court of Chancery, taken out of the common and general cash belonging to the suitors of the High Court of Chancery, which lay dead and unemployed in the Bank of England, and have been placed out, in the name of the Accountant General of the said Court, on Government or Parliamentary securities, and such Government or Parliamentary securities have been, in pursuance of the said several Acts, carried to an account intituled, " Account of Monies placed out for the benefit and better security of the Suitors of the High Court of Chancery," and out of the dividends and interest of the securities purchased in pursuance of the said several Acts, the several annual sums and salaries, and the several other payments by the said several Acts directed to be made and to be paid, have been from time to time made and paid, and the surplus interest and annual proceeds arising from the said securities, beyond what was sufficient to answer the purposes of the said several Acts, and also the interest produced from the securities purchased with such surplus interest and annual produce, have been from time to time, in pursuance of the said several Acts, laid out in the purchase of Government or Parliamentary securities, in the name of the Accountant General of the said Court, and placed to the credit of an account intituled, " Account of Securities purchased with surplus Interest arising from Securities, carried to an Account of Monies placed out for the benefit and better security of the Suitors of the High Court of Chancery:" AND whereas the said account or fund, to be intituled and called " The Masters' Fund Account," may be found insufficient for the payment of the several sums charged upon the said Account or Fund, and to be paid therefrom, as is hereinbefore directed and provided; BE it Enacted, That it shall be lawful for the said Accountant General of the said Court, and he is hereby directed from time to time to examine the state of the said Account or Fund, and to certify to the Lord Chancellor (as may be from time to time required) the state of the said Account or Fund, and the amount of any deficiency therein; and thereupon it shall be lawful for the Lord Chancellor, and he is hereby empowered by any Order to be by him from time to time in that behalf made, to direct that out of the interest and dividends arising from the securities purchased in pursuance of the said Act of the thirty-second year of his late Majesty King *George* the Third, and the several other Acts hereinbefore mentioned or referred to, and carried to the said Account, intituled " Account of Monies placed out for the benefit and better security of the Suitors of the High Court of Chancery," and also out of the interest and dividends of the securities purchased and to be purchased with the surplus interest and dividends in pursuance of the said Acts or any of them, or in pursuance of this Act, and

Accountant General to examine the state of the Fund, and certify the same to the Lord Chancellor, who may direct, out of the Dividends arising from the Securities purchased in pursuance of recited Act, such Sums to be paid as may be required to make good any Deficiency.

81

and carried to the said Account intituled, " Account of Securities
 " purchased with surplus Interest arising from Securities carried to
 " an Account of Monies placed out for the benefit and better security
 " of the Suitors of the High Court of Chancery," (but subject and
 5 without prejudice to the payment of all salaries and sums of money
 which by any Act or Acts heretofore passed are directed or autho-
 rized to be paid thereout) there shall from time to time be paid or
 transferred by the Governor and Company of the Bank of England
 into the name of the Accountant General of the said Court, to the
 10 credit of the said account or fund to be intituled and called " The
 Masters' Fund Account," such several sums of money as may be
 from time to time required to provide for and make good any
 deficiency in the said account or fund.

And be it further Enacted, That the surplus interest and annual
 15 produce which hath arisen or shall arise from the securities pur-
 chased and to be purchased as aforesaid, beyond what shall be
 sufficient from time to time to answer the purposes of the several
 Acts hereinbefore mentioned or referred to, and of this Act, and also
 the surplus interest and annual produce which shall arise from the
 20 securities purchased with such surplus interest and annual produce,
 shall from time to time be laid out in the purchase of Government
 or Parliamentary securities in the name of the Accountant General
 of the said Court, and be placed to the credit of the said account
 raised in pursuance of the said Act of the thirty-second year of the
 25 reign of his said late Majesty, intituled, " An Account of Securities
 " purchased with surplus Interest arising from Securities carried to
 " an Account of Monies placed out for the benefit and better secu-
 " rity of the Suitors of the High Court of Chancery."

Application
 of surplus
 Interest and
 annual Pro-
 duce.

And be it further Enacted, That it shall be lawful for the Lord
 30 High Chancellor for the time being, by any Order or Orders of the
 said Court of Chancery, to change the security or securities or any
 part of the securities purchased or to be purchased pursuant to the
 said several Acts, or to the Orders of the said Court of Chancery
 hereinbefore mentioned or referred to, or pursuant to this Act.

Securities
 may be
 changed.

Provided always, and be it further Enacted, That notwithstanding
 any of the provisions of this Act, if at any time hereafter the whole
 or any part of the monies placed out pursuant to the said several
 Acts, or to the said Orders of the said Court of Chancery, or any of
 them, or in pursuance of this Act, shall be wanted to answer the
 40 demands of any of the suitors of the said Court of Chancery, then
 and in such case the said Court shall and may direct the whole or
 any part of such monies to be called in, and the securities in
 which the same and the surplus interest and dividends hereinbefore

The Money
 placed out
 under this or
 former Acts,
 or any Orders
 of the Court,
 if wanted to
 answer
 Demands of
 Suitors, shall
 be called in.

mentioned shall be placed, to be sold and disposed of, in order that the suitors of the said Court may at all times be paid their respective demands out of the common and general cash belonging to such suitors.

Remedy in case the Money so placed out shall not be sufficient to answer the Demands.

Provided always, and be it further Enacted and Declared, That if at any time hereafter the whole or any part of the money to be paid or transferred in pursuance of this Act shall be wanted to answer any of the demands of the suitors of the High Court of Chancery, or any salaries, payments or sums of money payable, or ordered or granted, or to become payable under or by virtue of any former Acts or Acts, or by virtue of any Order or Orders made or to be made under the authority of any such Act or Acts, and the stocks and funds and cash then standing in the name of the Accountant General of the said Court to the several accounts before mentioned, or either of them, shall not be sufficient to answer and satisfy the same, that the same money taken from the said fund for the purposes and by virtue of this Act shall be and be considered a debt due from the Public, and shall be answered and made good accordingly. 5 10 15

Masters not to take any Fees, except such as are hereby allowed.

And be it further Enacted, That it shall not be lawful for any of the Masters in Ordinary of the said Court to take, demand, receive or accept for his own use any fee, gratuity or emolument other than such as are by this Act allowed, or as may be from time to time allowed by any Orders or Order to be made under and by virtue of this or any other Act. 20 25

Clerks taking any Fees not allowed by this Act, shall be liable to be removed

And be it further Enacted, That if any Clerk of any Master shall take, receive or accept for his own use, any fee, gift, gratuity or emolument, other than such as are by this Act allowed, or as may be from time to time allowed by any Order or Orders to be made under or by virtue of this or any other Act, such clerk so offending shall be liable to be removed from his situation by the Master in whose office he holds such situation, and shall be incapable for ever thereafter of holding any office under the High Court of Chancery. 30

Powers hereby given to the Lord Chancellor, &c. may be exercised by the Lord Keeper, &c. for the time being.

And be it further Enacted, That the powers and authorities given by this Act to the Lord Chancellor, the Master of the Rolls and the Vice-Chancellor respectively, shall and may be exercised in like manner and are hereby given to the Lord Chancellor, the Lord Keeper or Lords Commissioners for the custody of the Great Seal of the United Kingdom, the Master of the Rolls, and the Vice-Chancellor for the time being respectively. 35

A TABLE

A TABLE of FEES to be received by each of the MASTERS.

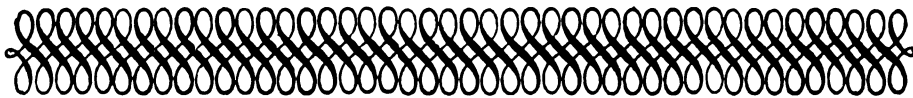
| | To be retained. | | | To be accounted for. | | |
|---|-----------------|----|----|----------------------|----|----|
| | £. | s. | d. | £. | s. | d. |
| FOR every Oath, Affirmation, or Attestation upon honour - | | | | | | |
| For taking the Acknowledgment of every Deed to be enrolled | | | | | | |
| For the Caption of every Recognizance, for each Recognizor | | | | | | |
| For the Examination of the Exemplification by two Masters, to each Master, for every skin of parchment - - - | | | | | | |
| For every Report or Certificate made upon Orders before hearing - - - - - | | | | | | |
| For every Report or Certificate after hearing, or in matters of Lunatics, Bankrupts, or Infant Trustees, or Mortgagees to convey, and in other matters referred to them, where no Cause is depending in Court - - - - - | | | | | | |
| For every Summons - - - - - | | | | | | |
| For allowing and signing every Advertisement to be put into the Gazette - - - - - | | | | | | |
| For ingrossing one part of every Deed allowed by the Master, each skin - - - - - | | | | | | |
| For allowing and signing every Deed, Recognizance, Account, or other matter allowed and signed by the Master - | | | | | | |
| For signing and certifying every Exhibit proved before a Master - - - - - | | | | | | |
| For Copies of Drafts of Conveyances to be settled by the Master, and of Deeds brought before the Master, and of Depositions, Interrogatories ingrossed for the Examination of parties, and of Examinations - - - - - | | | | | | |
| For Copies of Drafts of Reports, Charges, Discharges, Bills of Costs, Accounts, Objections, and of Schedules of Writings and other matters brought before a Master, to be paid by the party requiring the same - - - - - | | | | | | |
| For an Examination Fee, besides the Oath - - - - - | | | | | | |
| For writing every Receipt for Books, Writings or other things delivered out by a Master - - - - - | | | | | | |
| For settling, adjusting, and certifying Bills of Costs under Commissions of Bankruptcy - - - - - | | | | | | |
| For expunging Scandal or Impertinence out of every Record | | | | | | |
| For taxing Costs for the Plaintiff not filing his Bill, or not proceeding to reply, or for the Defendant not appearing in due time - - - - - | | | | | | |
| For the Return of a Sheriff's Patent - - - - - | | | | | | |
| For striking a Jury, from each party - - - - - | | | | | | |
| For subscribing the Receipt for Trust-money re-invested in South Sea Stock or Annuities paid off pursuant to Act of Parliament - - - - - | | | | | | |
| Where a Master is requested to go out of his office to attend any person to administer an Oath, or do any matter belonging to his office, a reasonable Recompence ought to be made to such Master for his trouble and loss of time. | | | | | | |

TABLE of FEES to be received by the CLERKS of each of the Masters.

| | To be retained. | To be accounted for. |
|--|-----------------|----------------------|
| | £. s. d. | £. s. d. |
| FOR drawing and transcribing every Report or Certificate - | | |
| For drawing and ingrossing every Recognizance with the Condition - - - - - | | |
| For writing each Bidding for Estates before a Master - | | |
| For writing the Jurat of Affidavits taken in Matters not depending in Court, as also the Caption of every Deed or Recognizance - - - - - | | |
| For attending the Court with Deeds and Writings, each day | | |
| For drawing and ingrossing the Affidavit of a Receiver or Committee, and getting the Book stamped - - - | | |
| For drawing and ingrossing Affidavit of Sureties Justification - - - - - | | |
| Ingrossing Interrogatories for the Examination of Parties, per folio - - - - - | | |
| For transcribing Reports to be signed by the Master, per folio - - - - - | | |
| For drawing and ingrossing every Advertisement - - | | |
| For comparing Deeds, Books and Papers deposited in the Office, with the Schedule thereof, and the same on delivering out - - - - - | | |
| For examining the Ingrossment of Deeds allowed by the Master, with the Solicitors, every Three Skins - - | | |
| For attending to inrol a Recognizance - - - - - | | |
| Attending Sales in the Country, exclusive of Expenses, per day - - - - - | | |
| For attending other Courts besides the Court of Chancery, with Deeds and Writings, in Town, per day - - - | | |
| At the Assizes, exclusive of Expenses, per day - - | | |
| Search for old Papers - - - - - | | |

12 February 1830.

83



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B I L L

For altering and amending the Law regarding
Commitments by Courts of Equity for Contempts,
and the taking Bills pro Confesso.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

WH **H E R E A S** by two several Acts, the one passed in the Preamble.
fifth year of the reign of his late Majesty George the
Second, intituled, “ An Act for making Process in Courts of Equity
“ effectual against Persons who abscond and cannot be served
5 “ therewith, or refuse to appear;” and the other, passed in the
forty-fifth year of the reign of his late Majesty King George the
Third, intituled, “ An Act to amend an Act passed in the fourth
“ year of His present Majesty, intituled, ‘ An Act for preventin
“ Inconveniencies arising in cases of Merchants and such other
10 “ Persons as are within the description of the Statutes relating to
“ Bankrupts, being entitled to priviledge of Parliament and becom-
“ ing insolvent, and to prevent delay in the entering Appearances
“ in Actions brought against Persons having priviledge of Par-
“ liament;’ ” certain provisions were made for entering Appear-
15 ances and taking Bills in Equity pro Confesso :

And whereas an Act was passed in the forty-ninth year of the reign
of his late Majesty, intituled, “ An Act for the Relief of Prisoners in
“ custody for non-payment of Money pursuant to Orders of Courts
“ of Equity :”

20 And whereas it is expedient to alter and amend the Law relating
to the Entering of Appearances and the taking of Bills pro Confesso,
and to consolidate the Laws on that subject ; and it is also expedient

37.

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to

Acts 5 Geo. 2.
and 45 Geo. 3.
repealed, and
49 Geo. 3.
amended.

to alter and amend the Law relating to Commitments by Courts of Equity for Contempts; ~~BE it therefore Enacted~~, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the whole of the said recited Acts of the fifth year of King George the Second, and of the forty-fifth year of King George the Third, and so much of the said recited Act of the forty-ninth year of his late Majesty George the Third, as relates to Courts of Equity, and the reading of Bills of Discovery as Evidence, shall be and the same are hereby repealed; but so as not to affect any thing done or enacted in pursuance thereof respectively; and any suit matter or thing now in progress under the authority of the said Acts respectively and not completed, shall or may be completed under the powers of this Act; and all the powers of this Act shall or may be exercised as well in regard to new suits, commitments, discharges, conveyances, fines, recoveries, matters or things, as to suits, commitments, discharges, conveyances, fines, recoveries, matters or things now subsisting or remaining to be made, done or perfected, whether the powers of the said Acts or any of them respectively shall or shall not have been applied thereto.

Register of
Persons
committed,
to be kept.

And be it further Enacted, That the Warden of the Fleet Prison shall keep a Register of the names of the persons from time to time committed by the Courts of Equity for contempts, stating the times when they were committed, and distinguishing them into two classes; (that is to say) The first class to comprise those who are committed by the Court for contempts in open Court, the improper marriage of wards of the Court and the like (whom the Courts, as the law stood before the passing of this Act, had power to discharge of their own authority) and that class to be designated "Prisoners of the Court;" and the second class to comprize those who are committed by the Court for contempts in not answering the like, (whom the Courts, as the law stood before the passing of this Act, had not power to discharge, without their contempts were cleared, or the consent of the adverse party were obtained,) and such last-mentioned class to be designated "Prisoners of the Suitors."

5 Geo. 2. c. 25.
§

Persons not
appearing,
Appearance
within the
usual time
after Subpœna
and justly sus-

AND whereas sometimes persons have withdrawn themselves beyond the seas, or otherwise absconded, to avoid appearing in Courts of Equity, or, being served with process for that purpose, or being brought into court by habeas corpus, have refused to appear; FOR Remedy of the Inconvenience thence ensuing, Be it further Enacted, That if in any suit which hath been or hereafter shall be commenced in any Court of Equity, any defendant against whom any subpœna or other process shall issue, shall not cause his appearance to be entered upon such process within such time and in such manner as according

8
pected to
abscond to
avoid process ;

Court to fix a
day for his
appearance, to
be inserted in
the Gazette
and published
in the Parish
Church of the
Defendant,
and posted in
some public
place.

Defendant not
appearing ; .

the Plaintiff's
Bill to be
taken pro
Confesso, &c.

according to the rules of the Court the same ought to have been entered, in case such process had been duly served, and an affidavit or affidavits shall be made to the satisfaction of such Court, that such defendant is beyond the seas, or that upon enquiry at his usual place of abode he could not be found so as to be served with such process, and that there is just ground to believe that such defendant is gone out of the realm, or otherwise absconded, to avoid being served with the process of such Court; then and in such case the Court out of which such process issued, may make an order directing and appointing such defendant to appear at a certain day therein to be named, and a copy of such order shall within *Fourteen* days after such order made be inserted in the London Gazette, and published on some Lord's day immediately after divine service in the parish church of the parish where such defendant made his usual abode within *Thirty* days next before such his absenting; and also a copy of such order shall, within the time aforesaid, be posted up as after mentioned (that is to say) a copy of every such order made in His Majesty's High Court of Chancery, Court of Exchequer, or the Court of the Dutchy Chamber of Lancaster at Westminster, shall be posted up in some public place at the Royal Exchange in London; and a copy of every such order made in any of the Courts of Equity of the counties palatine of Chester, Lancaster, and Durham, or of the Great Sessions in Wales, shall be posted up at some public place in some market town within the jurisdiction of the Court by which such order was made, and nearest to the place where such defendant made his usual abode as aforesaid, such place of abode being also within the jurisdiction of the said Court; and if the defendant do not appear within the time limited by such order, or within such further time as the Court shall appoint, then on proof made of such publication of such order as aforesaid, the Court being satisfied of the truth thereof, may order the plaintiff's bill to be taken pro Confesso, and make such decree thereupon as shall be thought just, and may thereupon issue process to compel the performance of such decree, either by an immediate sequestration of the real and personal estate and effects of the party so absenting (if any such can be found), or such part thereof as may be sufficient to satisfy the demands of the plaintiff in the said suit, or by causing possession of the estate or effects demanded by the bill to be delivered to the plaintiff, or otherwise, as the nature of the case shall require; and the said Court may likewise order such plaintiff to be paid and satisfied his demands out of the estate or effects so sequestered, according to the true intent and meaning of such decree, such plaintiff first giving sufficient security in such sum as the Court shall think proper, to abide such order touching the restitution of such estate or effects as the Court shall think proper to make concerning the same, upon the defendant's appearance to defend such suit and paying such costs to the plaintiff

as the Court shall order; but in case such plaintiff shall refuse or neglect to give such security as aforesaid, then the said Court shall order the estate or effects so sequestered, or whereof the possession shall be decreed to be delivered, to remain under the direction of the Court, either by appointing a receiver thereof, or otherwise, as to such Court shall seem meet, until the appearance of the defendant to defend such suit, and his paying such costs to the plaintiff as the said Court shall think reasonable, or until such order shall be made therein as the Court shall think just.

5 Geo. 2. c. 25.
§ 3.

Persons in
custody so
refusing, to be
served with a
Copy of the
Decree.

Provided always, and be it further Enacted, That if any person, against whom any decree shall be made upon refusal or neglect to enter his appearance or appoint a clerk in Court or attorney to act on his behalf, shall be in custody or forthcoming, so that he may be served with a copy of such decree, then he shall be served with a copy thereof, before any process shall be taken out to compel the performance thereof.

5 Geo. 2. c. 25.
§ 4.

Persons out of
the Realm
affected by
such Decrees
if they return
within
seven years,
to be served
with a Copy,
or in case of
death, his
heir, &c.

Provided also, and be it further Enacted, That if any decree shall be made in pursuance of this Act, against any person being out of the realm, or absconding in manner aforesaid, at the time such decree is pronounced, and such person shall within Seven years after the making such decree, return, or become publicly visible, then and in such case he shall likewise be served with a copy of such decree within a reasonable time after his return or public appearance shall be known to the plaintiff; and in case any defendant against whom such decree shall be made, shall, within Seven years after the making such decree, happen to die before his or her return into this realm, or appearing openly as aforesaid, or shall within the time last before mentioned die in custody, before his or her being served with a copy of such decree, then his or her heir, if such defendant shall have any real estate sequestered, or whereof possession shall have been delivered to the plaintiff, and such heir may be found, or if such heir shall be a feme covert, infant, or non compos mentis, the husband, guardian or committee of such heir respectively, or if the personal estate of such defendant be sequestered, or possession thereof delivered to the plaintiff, then his executor or administrator (if any such there be) may and shall be served with a copy of such decree, within a reasonable time after it shall be known to the plaintiff that the defendant is dead, and who is his heir, executor or administrator, or where he may be served therewith.

5 Geo. 2. c. 25.
§ 5.

If persons
served with
such Copies
shall not peti-
tion a re-
hearing of the
Cause within

Provided always, and be it further Enacted, That if any person so served with a copy of such decree, shall not within Six months after such service appear and petition to have the said cause reheard, such decree so made as aforesaid shall stand absolutely confirmed against the person so served with a copy thereof, his heirs, executors

executors and administrators, and all persons claiming or to claim by, from or under him or any of them, by virtue of any act done or to be done subsequent to the commencement of such suit.

89
six months, the Decree to be absolutely confirmed, and bar all claiming by them.

5 Provided always, and be it further Enacted, That if any person so served with a copy of such decree shall within *Six* months after such service, or if any person not being so served shall within *Seven* years next after the making such decree, appear in Court and petition to be heard with respect to the matter of such decree, and shall pay down or give security for payment of such costs as the Court shall think reasonable in that behalf, the person so petitioning or his representatives, or any person claiming under him by virtue of any act done before the commencement of the suit, may be admitted to answer the bill exhibited, and issue may be joined, and witnesses on both sides examined, and such other proceedings, decree and execution may be had thereon, as there might have been in case the same party had originally appeared and the proceedings had then been newly begun, or as if no former decree or proceedings had been in the same cause.

5 Geo. 2. c. 25. § 6.

Defendants petitioning a re-hearing within seven years and giving security for Costs, admitted to answer, and the Cause to be heard again.

20 Provided always, and be it further Enacted, That if any person against whom such decree shall be made, his heirs, executors or administrators, shall not within *Seven* years next after the making of such decree, appear and petition to have the cause re-heard, and pay down or give security for payment of such costs as the Court shall think reasonable in that behalf, such decree made as aforesaid shall stand absolutely confirmed against the person against whom such decree shall be made, his heirs, executors and administrators, and against all persons claiming or to claim by, from or under him any of them, by virtue of any act done or to be done subsequent to the commencement of such suit; and at the end of such *Seven* years it shall and may be lawful for the Court to make such further order as shall be just and reasonable, according to the circumstances of the case.

5 Geo. 2. c. 25. § 7.

Not appearing within seven years, and making such Petition, to be absolutely barred.

35 Provided always, and be it further Enacted, That this Act shall not extend or be construed to extend to warrant or make good any proceeding against any person beyond the seas, unless it shall appear to the satisfaction of the Court, by affidavit or affidavits before the making of such decree, that such person had been in that part of Great Britain called England within *Two* years next before the subpoena in such suit issued against such person.

5 Geo. 2. c. 25. § 8.

Not to affect persons beyond the seas, unless, &c.

40 Provided also, and be it further Enacted, That the provisions hereinbefore contained shall not extend or be construed to extend to warrant or make good any proceeding against any person in any Court of

5 Geo. 2. c. 25. § 9.

Not to extend to Courts having a limited jurisdiction, unless oath be made

of residence in such jurisdiction one year before subpoena: see further 19 Geo. 2, c. 24; 23 Geo 2, c. 25.

5 Geo. 2, c. 25, s. 2. as altered.

Defendants brought into Court by Habeas Corpus, or in custody, and refusing to enter appearance, Court to enter it for them.

Equity having a limited jurisdiction, unless it shall appear to the satisfaction of such Court by affidavit, before the making of such decree, that such person had resided within the jurisdiction of such court within one year next before the subpoena in such suit issued against such person.

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And be it further Enacted, That from and after the *passing of this Act*, if any defendant, by virtue of any writ of Habeas Corpus or other process issuing out of any Court of Equity, shall be brought into Court, and shall refuse or neglect, or being within the walls of any prison in England under or charged with an attachment, shall, after *Fourteen* days previous notice in writing requiring him to enter an appearance, refuse or neglect to enter his appearance according to the rules or method required by the said Court, or to appoint a clerk in Court or attorney of such Court to act on his behalf, such Court may appoint a clerk in Court or attorney of such Court to enter an appearance for such defendant, and such proceedings may thereupon be had in the cause as if the party had actually appeared.

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45 Geo. 3, c. 124, § 4.

Appearances may also be put in for defendants having privilege of Parliament in Courts of Equity, on return of process of sequestration.

AND whereas in many cases persons having privilege of Parliament are named as defendants in suits instituted in Courts of Equity against them, either alone or jointly with other persons, for enforcing against them demands and duties cognizable in Courts of Equity, and in some cases such defendants having privileges of Parliament have stood out to the return of process of sequestration issued against them for enforcing appearance, and such process of sequestration hath not been found sufficient to enforce such appearance; BE it therefore Enacted, That from and after the *passing of this Act*, in case any defendant having privilege of Parliament, shall, upon a return of process of sequestration issued against him for not putting in an appearance to any original or other bill of complaint instituted against him in a Court of Equity for enforcing discovery and relief, or discovery alone (as the case may be,) neglect to appear, that then and in such case such Court, upon producing the return of such sequestration in Court, may on the motion or other application of the plaintiff in such cause, appoint a clerk in Court to enter an appearance for such defendant so having privilege of Parliament, and such proceedings may be thereupon had in the cause as if the party had actually appeared.

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45 Geo. 3, c. 124, § 5.

In default of answer to Bill in Equity against persons having privilege of Parliament, Bill shall be taken pro confesso.

AND whereas in many cases it is necessary on the part of the persons having legal rights against persons having privilege of Parliament, to proceed by bill in equity against such persons so having privilege of Parliament, to obtain from them discovery on oath of facts intended to be used or given in evidence in Courts of Law against the persons making such discovery; and in cases where such

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such persons having such privilege as aforesaid, shall stand out
 process of contempt, parties entitled to such discovery against them
 have not sufficient means of compelling or obtaining the same in all
 cases; BE it therefore Enacted, That from and after the *passing of*
 5 *this Act*, when any defendant having privilege of Parliament shall
 have appeared to any bill filed against him seeking a discovery
 upon oath, or when an appearance shall have been entered for such
 defendant according to the provisions aforesaid, and such person
 shall refuse or neglect to put in his answer to such bill within the
 10 time for that purpose allowed by the rules and orders of such Court,
 that then it shall and may be lawful for the plaintiff in such suit
 to apply to the Court for an order that such bill shall be taken
 pro confesso against such defendant, and upon such application
 such Court of Equity shall make an order that such bill shall
 15 be taken pro confesso, unless the defendant shall within *Eight*
 days after being served with such order shew good cause to the
 contrary.

And be it further Enacted, That when and so soon as any such
 order shall have been pronounced by any such Court of Equity for
 20 taking such bill pro confesso, such bill in equity so taken pro con-
 fesso shall be taken and read in any Court of law or equity as
 evidence of the facts, and matters and things therein contained, in the
 same manner as if such facts, matters and things had been admitted to
 be true by the answer of the defendant put into such bill; and such
 25 bill so taken pro confesso shall be received and taken in evidence of
 such and the same facts, and on behalf of such and so many persons,
 as the answer of the defendant to the said bill could and might have
 been read and received in evidence of, in case such answer had
 been put in by the defendant thereto, and had admitted the same
 30 facts, matters and circumstances as in such bill stated and set forth;
 and in like manner every other bill of discovery taken pro confesso,
 under any of the provisions of this Act, shall or may be taken and
 read as evidence of the facts and matters and things therein con-
 tained, to the extent aforesaid.

45 Geo. 3,
 c. 124, § 6.

Such Bill shall
 be read in evi-
 dence as an
 answer admit-
 ting the facts.

AND for remedying the Practice of Courts of Equity in regard to
 35 process of Contempt and the taking of Bills pro confesso; BE it further
 Enacted, That the rules and regulations hereinafter provided and
 contained shall be adopted by the High Court of Chancery, and
 shall from henceforth become orders and rules of the said Court of
 Chancery, and be observed and enforced in and by the said Court;
 40 (that is to say,)

Appointment
 of Rules for
 Courts of
 Equity.

I. That when a writ of attachment shall have duly issued against
 any defendant for contempt in not answering the bill, and
 such defendant shall not have been taken under such writ, and
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the sheriff of the county into which such writ shall have issued shall make a return of *Non est inventus* to the same, the Court shall, upon motion by or on behalf of the plaintiff or plaintiffs, (notice of which shall not be required,) order that the serjeant-at-arms attending the Court do apprehend such defendant and bring him to the bar of the Court to answer his contempt, and the same proceedings may thereupon be had as if such order had been made in the manner heretofore in use; provided that before such order shall in any such case be made, the plaintiff or plaintiffs applying for the same shall be required to satisfy the Court, by the affidavit of the solicitor of the plaintiff, or of his town agent, if the writ of attachment was issued by such town agent, that due diligence was used to ascertain the place where such defendant was at the time of issuing such writ, and in endeavouring to apprehend such defendant under the same, and that the person suing forth such writ verily believed at the time of suing forth the same that such defendant was in the county into which such writ was issued.

2. That if any defendant, being in contempt for not answering the bill, shall have been brought to the bar of the Court under process for such contempt, and shall have been committed or remanded back to the prison of the Fleet, the plaintiff may sue forth the writ of Habeas Corpus in the manner and form heretofore in use in the like cases, provided that there shall be at least *Twenty-eight* days between the day on which such defendant was so committed or remanded back and the return of such writ of Habeas Corpus, and upon or after the return of such writ of Habeas Corpus, in case such defendant shall not have put in his answer, the Court shall order the bill to be taken *pro confesso* against such defendant, in the same manner as is now usual in the like cases upon the return of a writ of *Alias pluries habeas corpus*, and such decree shall thereupon be made as shall be thought just; but in regard to any defendant in custody before and at the time of the passing of this Act, there shall be at least *Thirty* days between the time of passing this Act and the return of such last-mentioned writ of Habeas Corpus; and in no case of any defendant now in custody as aforesaid, who shall have been brought to the bar of the Court as aforesaid, shall it be necessary to sue forth more than one writ of Habeas Corpus, in order to take the bill *pro confesso*; and whenever a defendant in contempt shall appear in Court, the Judge presiding shall admonish him, and state to him the consequences of his persisting in his contempt.
3. That the party prosecuting any contempt, shall be at liberty, without order, to sue forth the several writs in process of contempt

93

tempt, returnable immediately in case the party in contempt resides or is in London or within twenty miles thereof; and that in other cases, the party prosecuting a contempt shall be at liberty, without order, to sue forth such several writs, returnable in vacation, provided that there be *Fifteen* days between the teste and the return of each of such writs.

4. That where a defendant is confined for a misdemeanor or felony, and has been brought before the Court upon an Habeas Corpus, and thereupon has been turned over to the Fleet pro forma, but has been carried back to the prison from whence he came, with his cause, another writ of Habeas Corpus may issue, directed to the gaoler or keeper of the prison to which he has been carried back, and thereupon the defendant shall be brought into Court and remanded to the prison from whence he came, with his cause, without being turned over again to the Fleet prison, and the bill may be taken pro confesso, in the same manner in all respects as if the defendant had been all along in the custody of the warden of the Fleet.

5. That where any defendant, being in contempt for not answering, shall put in his answer, such defendant may forthwith, upon motion or petition, without notice, obtain an order to be discharged from such contempt, upon payment or tender of the costs thereof; but in case such answer shall be insufficient, the plaintiff shall be at liberty to resort back to the former process of contempt and to proceed thereon, notwithstanding the costs thereof may have been received, in the same manner as if such costs had not been received.

6. That if the defendant, under process of contempt for not appearing or not answering, be in actual custody, and shall not have been sooner brought to the bar of the Court under process to answer his contempt, the plaintiff, if the contempt be not sooner cleared, shall bring the defendant by an Habeas Corpus to the bar of the Court within *Six* weeks from the time of his being actually in custody, or detained (being already in custody) upon process of contempt, and if the last day of such *Six* weeks shall happen out of Term, then within the *Four* first days of the ensuing Term; and where the defendant is in custody of the serjeant at arms, or of the messenger, under an attachment, the plaintiff shall, within *Ten* days after his being taken into such custody, or if on the last of such *Ten* days the Court shall not be actually sitting for the dispatch of business, then on the first and next day on which the Court shall actually sit for that purpose, cause the defendant to be brought to the bar of the Court; and in case any such defendant shall not be brought to the bar of the Court within the respective times aforesaid, the

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sheriff,

sheriff, gaoler or keeper, serjeant at arms or messenger, in whose custody he shall be, shall thereupon discharge him out of custody without payment by him of the costs of contempt, which shall be payable by the party on whose behalf the process issued; and this rule shall apply to every defendant in custody before and at the time of passing of this Act, who shall not have been brought to the bar of the Court; but the *Six* weeks allowed in the first above-mentioned case, and the *Ten* days allowed in the second above-mentioned case, shall be reckoned from the time of passing of this Act.

7. That if a defendant, upon being brought before the Court upon an Habeas Corpus, shall make oath (which shall be administered to him by the registrar, and he shall be examined in open Court) that he is unable by reason of poverty to employ a solicitor to put in his answer, the Court shall thereupon refer it to a Master in rotation and one of the King's counsel practising in that Court, or during Term time, to two of such King's counsel without a Master, to inquire instanter into the truth of that allegation, and to report thereon to the Court viva voce, and thereupon the Court may make such order as upon other reports of the like nature under the provisions hereinafter contained.
8. That on the *Thirtieth day of January, the Thirtieth day of April, the Thirtieth day of July, and the Thirtieth day of October*, in every year, one of the Masters of the Court of Chancery, to be named by the Court, and the junior King's counsel practising there, or in case of his absence or illness some one other of such King's counsel to be named by the Court, shall visit the Fleet Prison, and examine the prisoners confined there for contempt, and shall report their opinion thereon to the Court; and thereupon it shall be lawful for the Court to order, if it shall see fit, that the costs of the contempt of any such prisoner shall be paid out of the interest and dividends arising from the several Government or Parliamentary securities standing in the name of the Accountant-general of the said Court of Chancery, intituled, "Account of Monies placed out for the benefit and better security of the Suitors of the High Court of Chancery," and "Account of Securities purchased with surplus interest arising from Securities carried to an account of Monies placed out for the benefit and better security of the Suitors of the High Court of Chancery," or out of any cash standing to either of such accounts, or to any other account which is now or hereafter may be standing to the credit of the suitors of the said Court of Chancery, (after and subject to the payment of all charges which by any Act heretofore passed are directed to

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to be paid thereout,) and to assign a solicitor and counsel to such prisoner, for putting in his answer and defending him in forma pauperis, and to direct any such prisoner having previously done such acts as the Court shall direct, to be discharged out of custody; provided that if any such defendant become entitled to any funds out of such cause, the same shall be applied in the first instance to the reimbursement of the suitors fund.

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9. That it shall be lawful for the Master and King's counsel visiting the Fleet, or to whom the case of a prisoner shall be referred by the Court itself, to examine the prisoner and all other persons whom they may think it proper to examine, upon oath, and to administer an oath or oaths to any such prisoner and other persons accordingly; and to cause any officers, clerks and ministers of any Court of Law or Equity, to bring and produce upon oath before them, any records, orders, books, papers or other writings belonging to the said Courts, or to any of the officers within the same as such officers.

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10. That if it shall appear to the satisfaction of the Court, that any such prisoner is a lunatic, although no commission has issued, the Court shall appoint a guardian to put in his answer and discharge the defendant, providing for the costs in any of the ways pointed out by this Act, as shall seem just; and if the Court shall see fit, such defence may be made in forma pauperis.

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11. That where the defendant has been brought to the bar of the Court for his contempt in not answering, and refuses or neglects to answer (not being a lunatic) the Court may, upon motion or petition, of which due notice shall be given to the defendant, authorize the plaintiff to amend his bill, without such amendment operating as a discharge of the contempt, or rendering it necessary to proceed with the process of contempt de novo; but after such amendment the plaintiff may proceed to take the amended bill pro confesso, in the same manner as if it had not been amended: Provided nevertheless, That if the defendant shall be desirous to answer such amended bill, the Court shall allow him such time as shall seem just for that purpose; but if he shall not within the time allowed by the Court put in a sufficient answer to the amended bill, the process for taking the bill pro confesso may be resumed and carried on; and if a sufficient answer is put in within the time aforesaid the cause shall proceed regularly, and the defendant shall, by the order of the Court, be discharged of his contempt, upon payment or tender of the costs of the contempt.

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12. That in every case where the defendant has been brought to the bar of the Court to answer his contempt for not answering,

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and shall refuse or neglect to answer within the next *Twenty-one* days, the plaintiff shall be at liberty, with the leave of the Court, upon *Three* days previous notice to the defendant after the expiration of such *Twenty-one* days, unless good cause be shown to the contrary, instead of taking his bill pro confesso, to put in such an answer to the bill as hereinafter is mentioned, in the name of the defendant, without oath or signature ; and thereupon the suit shall proceed just as if such answer were really the answer of the defendant, with which the plaintiff was satisfied ; and the costs of the contempt and of putting in such answer may be provided for in like manner as if the defendant himself had put in such answer ; and such answer, besides the formal parts thereof, shall be to the following effect, That the defendant leaves the plaintiff to make such proofs of the several matters in the bill alleged, as he shall be able or be advised, and submits his interests to the Court.

13. That in any case where, upon the application of the plaintiff, the Court shall be satisfied that justice cannot be done to the plaintiff, without an answer to the bill or to the interrogatories from the defendant himself, it shall be lawful for the Court to order the defendant to remain in custody until answer or further order, but without prejudice to the plaintiff's availing himself of any of the provisions of this Act.
14. That where the defendant is in contempt for not appearing or not answering, and in actual custody under process for such contempt, or being already in custody shall be detained by an attachment for such contempt, and shall not, where the contempt is for not appearing, enter an appearance within *Twenty-one* days after he is lodged in gaol or prison, or the attachment is served, (he being already in prison,) as the case may be, or where the contempt is for not answering, put in an answer within *Two* calendar months after he is lodged in gaol or prison or the attachment is served, he being already in prison, the plaintiff shall (as the case may be) within *Fourteen* days after the period computed from the expiration of such *Twenty-one* days within which he may by the provisions of this Act be able to enter such appearance, cause an appearance to be entered for the defendant under the powers of this Act, and shall at the expiration of such *Two* calendar months proceed to take the bill pro confesso, and shall accordingly take the same pro confesso within *Six* weeks after the period, computed from the expiration of such *Two* calendar months, within which he may be able to take the same pro confesso, or in default of so doing in either of such cases, the defendant shall, upon application to the Court, be entitled to be discharged out of custody, without paying any of the

the costs of the contempt, unless the Court shall, under the power hereinbefore contained, see good cause to remand and detain the defendant in custody ; and this rule shall apply to every defendant in custody before and at the time of the passing of this Act, who shall not have entered his appearance, and for whom an appearance shall not have been entered, or shall not have answered the bill, and the bill shall not have been taken pro confesso, but the *Twenty-one* days and *Two* calendar months respectively to be reckoned from the time of passing this Act, and the other periods to be altered accordingly in computation ; but nothing in this Act shall prevent any plaintiff from proceeding to take his bill pro confesso, according to the practice existing before the passing of this Act, where at the time of passing of this Act his proceedings shall be so far advanced that the powers of this Act would not enable him to accelerate the period for taking his bill pro confesso.

15. That where the bill is filed for the foreclosure of a mortgage, and the defendant upon being brought into Court upon an Habeas Corpus refuses to answer, or submitting to answer shall not put in a sufficient answer within the next fourteen days, it shall be lawful for the Court, upon the motion of the plaintiff, of which *Six* days previous notice shall be served on the defendant personally, and upon proof by affidavit to the satisfaction of the Court of the execution of the mortgage in question in the cause, to order an immediate sale before one of the Masters of the said Court of the mortgaged premises, and to direct the usual accounts to be taken as between mortgagor and mortgagee, and thereafter to direct the application of the purchase money according to the rights of the different parties, as may be just ; and upon the pronouncing of any such order for sale the defendant shall stand discharged of his contempt, except so far as regards the payment of the costs of it, which in the discretion of the Court may be made costs in the cause, or he may be left in custody for the same, subject to be discharged therefrom under any of the provisions of this Act.

16. That where a defendant is in custody for contempt for not answering, and shall be able to put in his answer by borrowing or obtaining a copy of the bill, without taking an office copy of the bill, he shall not be compellable to take any such copy, but the clerk in Court may (if he think the defendant is of sufficient ability to pay for an office copy) require him, before the answer is filed, to make an affidavit denying his ability in consequence of poverty to pay for an office copy of the bill.

17. That when any person shall have been directed by any decree or order to execute any deed or other instrument, or make a

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surrender,

surrender, or transfer any stock or the like, or to levy a fine or suffer a recovery, and shall have refused or neglected to execute, make or transfer, or levy or suffer the same, and shall have been committed to prison under process for such contempt, or, being confined in prison for any other cause, shall have been charged with or detained under process for such contempt, and shall remain in such prison, the Court may upon motion or petition, and upon affidavit that such person has after the expiration of *Two* calendar months from the time of his being committed under or charged with, or detained under such process, again refused to execute such deed or instrument, or make such surrender or transfer, or levy, or suffer such fine or recovery, order or appoint one of the Masters in Ordinary, or if the act is to be done out of London, then if necessary one of the Masters Extraordinary to execute such deed or other instrument, or to make such surrender or transfer for and in the name of such person, and to levy such fine or suffer such recovery in his name, and to do all acts necessary to give validity and operation to such fine and recovery, and to lead or declare the uses thereof; and the execution of the said deed or other instrument, and the surrender or transfer made by the said Master, and the fine or recovery levied or suffered by him, shall in all respects have the same force and validity as if the same had been executed or made, levied or suffered, by the party himself; and within seven days after the execution or making of any such deed or other instrument, or surrender, or transfer, or levying or suffering such fine or recovery, notice thereof shall be given by the adverse solicitor, to the party in whose name the same is executed or made; and such party, as soon as the deed or other instrument, or surrender, transfer, fine or recovery shall be executed, made, levied or suffered, shall be considered as having cleared his contempt, except as far as regards the payment of the costs of the contempt, and shall be entitled to be discharged therefrom under any of the provisions of this Act applicable to his case; and the Court shall make such order as shall be just, touching the payment of the costs of or attending any such deed, surrender, instrument, transfer, fine or recovery.

18. That where a person shall be committed for a contempt in not delivering to any person or persons, or depositing in Court or elsewhere, as by any order may be directed, books, papers or any other articles or things, any sequestrator or sequestrators appointed under any commission of sequestration, shall have the same power to seize and take such books, papers writings or other articles or things, being in the custody or power of the person against whom the sequestration issues, as they would have over his own property; and thereupon such articles or things so seized

99

seized and taken, shall be dealt with by the Court as shall be just ; and after such seizure it shall be lawful for the Court, upon the application of the prisoner, or of any other person in the cause or matter, or upon any report to be made in pursuance of this Act, to make such order for the discharge of the prisoner, upon such terms, and if it shall see fit, making any costs in the cause, as to the Court shall seem proper.

19. That in any other case of a commitment for contempt, not herein specially provided for, the Court may upon any such application as last aforesaid, or upon any such report as aforesaid, make such order for the discharge of the prisoner, upon any such terms, and making, if the court shall see fit, any costs in the cause as to the Court shall seem proper.

20. That where any person committed for a contempt shall be entitled to his discharge upon applying to the Court, but shall omit to make such application, the Court may upon any such report as aforesaid compulsorily discharge such person from the contempt and from custody, and pay the costs of the contempt out of any funds belonging to him over which the Court may have power, or make them costs in the cause as against him, or may discharge him from the contempt, but leave him in custody for the costs which may be cleared if he be insolvent, under the provisions hereinafter contained in that behalf.

21. That where any party obstinately retains possession of lands or other real property, after a writ of execution of an order for delivery of possession has been duly served and demand of possession made, and upon an affidavit of such service of the writ of execution, and of such demand made thereunder, and a refusal to comply therewith on the part of the person against whom the writ issued, the party issuing it shall be at liberty to issue the writ of assistance, and that the intermediate writ of injunction further commanding the party to deliver possession, or any other writ, shall be unnecessary.

22. That in order to relieve persons in prison from the expense of a Master's attendance to take affidavits or answers, the Lord High Chancellor do, by one or more commission or commissions under the great seal, nominate and appoint the warden, keeper or other chief officer of every prison within the city of London, or the bills of mortality, and their deputies, to be Masters Extraordinary of the High Court of Chancery, for the purpose of taking and receiving all and every such affidavits and answers as any person or persons within any such prison shall be willing or desirous to make before any such persons, in or concerning any cause matter or thing depending or hereafter to be depending in the High Court of Chancery, or in any matter

matter of bankruptcy, and for no other purpose ; and the person so taking such affidavit or answer shall in respect thereof be entitled to receive a fee of *One Shilling* and no more ; and the Court of Exchequer shall in like manner appoint such persons as aforesaid, a commissioner or commissioners of the said Court, for the purposes aforesaid, and no others, and with the right to the like fee, and no more ; and in every case of an answer being sworn in prison, a clerk of a Master or Baron, (as the case may require) shall attend to make and carry back to and from the prison the answer, and shall in respect thereof be entitled to a fee of *Three Shillings*, and no more.

7 Geo. 4, c. 57,
§ 50.

Discharge
may extend to
Process for
Contempt in
non-payment
of Money,
and to Costs
incurred by
Creditor, but
subject to tax-
ation.

And be it Enacted, That the discharge of any prisoner adjudicated upon under the authority of an Act passed in the seventh year of His present Majesty's reign, intituled, " An Act to amend and consolidate the Laws for the relief of Insolvent Debtors in England," or any other Act which may hereafter be passed for the relief of Insolvent Debtors, shall and may extend to all process issuing from any Court of Equity, for any contempt of such Court for nonpayment of money, or of costs or expenses in any such Court ; and that in such case, the said discharge shall be deemed to extend to all costs which such prisoner shall be liable to pay in consequence or by reason of such contempt, or on purging the same ; and that every discharge so adjudicated as aforesaid, as to any debt or damages of any creditor of such prisoner, shall be deemed to extend also to all costs incurred by such creditor, before the filing of such prisoner's schedule, in any action or suit brought by such creditor against such prisoner for the purpose, for the recovery of the same ; and that all persons as to whose demands for any such costs, money or expenses, any such person shall be so adjudged to be discharged, shall be deemed and taken to be creditors of such prisoner in respect thereof, and entitled to the benefits of all the provisions made for creditors by the said Act or any future Act ; subject nevertheless to such ascertaining of the amount of the said demands as may be had by taxation or otherwise, and to such examination thereof as is in the said last-mentioned Act or as shall be in any future Act provided in respect of all claim to a dividend of such insolvent's estate and effects.

When Pro-
cess of Con-
tempt is for
nonperform-
ance of an
Act.

And be it further Enacted, That where the process of contempt is for the non-performance of an act, for example, the not answering the plaintiff's bill, and the bill in equity to which the insolvent is a party is taken pro confesso, and he has not paid the costs of the contempt, or the insolvent has fully answered the plaintiff's bill or interrogatories or otherwise cleared his contempt, except as far as regards the payment of the costs, or it has become in event unnecessary for him to do

do the act for the non-performance of which he was committed or attached, the Court of Chancery shall, upon the application of the party in contempt, discharge him from the same, except as to the costs thereof, for which he shall remain in custody, and such costs shall
 5 be deemed within the provision lastly hereinbefore contained, and he shall be dischargeable therefrom, and from the process of contempt, in like manner as if the process of contempt were for nonpayment of money or costs; provided that this order or regulation shall not weaken any of the other powers by this Act given, nor shall any thing
 10 herein contained lessen the operation of the said Act for the relief of insolvent debtors.

AND whereas it is just and highly expedient that the benefit of an Act passed in the thirty-second year of the reign of King George the Second, intituled, "An Act for relief of Debtors with respect to
 15 " the Imprisonment of their Persons, and to oblige Debtors who " shall continue in execution in Prison beyond a certain time, and " for Sums not exceeding what are mentioned in the Act, to make " discovery of and deliver upon oath their Estates for their Creditors' " benefit;" and of an Act passed in the thirty-third year of
 20 the reign of His late Majesty, intituled, "An Act for the " further relief of Debtors with respect to the Imprisonment of their " Persons, and to oblige Debtors who shall continue in execution in " Prison beyond a certain time, and for Sums not exceeding what " are mentioned in the Act, to make discovery of and deliver upon
 25 " oath their Estates for their Creditors' benefit;" and of an Act, passed in the thirty-seventh year of the reign of His late Majesty, intituled, "An Act to amend so much of an Act made in the thirty-
 30 " second year of the reign of King George the Second, intituled, " 'An Act for the relief of Debtors with respect to the Imprison-
 35 " ment of their Persons, and to oblige Debtors who shall continue " in execution in Prison beyond a certain time, and for Sums not " exceeding what are mentioned in the Act, to make discovery of " and deliver upon oath their Estates for their Creditors' benefit, as " relates to the weekly Sums thereby directed to be paid to Prisoners
 40 " in execution for Debt, in the cases therein mentioned," should be extended to prisoners in custody for contempt of Court, by not paying money ordered to be paid by decrees or orders of Courts of Equity; BE it therefore further Enacted, That from and after the passing of this Act, all persons who are or shall be in custody for contempt of any Court of Equity, by not paying any sum or sums of money or costs ordered to be paid by any decree or order of any such Court, shall be entitled to the benefit of the said several Acts of Parliament, and shall be subject to all the same terms and conditions as are therein expressed and declared with respect to prisoners for debt only; and that it shall be lawful for persons now in custody for
 37. E such

101

32 Geo. 2.
c. 28.33 Geo. 3.
c. 5.37 Geo. 3.
c. 85.

Persons in custody for contempt of Courts of Equity, for non-payment of Money or Costs, shall be entitled to the benefit of the recited Acts.

such contempt, to make application for relief under the said Acts of Parliament, at any time before the end of *Michaelmas term next*.

Powers extended to Lord Keeper.

And be it Enacted, That the powers and authorities given by this Act to the Court of Chancery, or to the Lord Chancellor of Great Britain, shall and may be exercised as well by such Lord Chancellor 5 as by (and they are hereby given to) the Lord Keeper or Commissioners of the Great Seal of Great Britain for the time being, and to the Master of the Rolls and Vice Chancellor respectively ; but the reports of Visitors of the Fleet to be made to the Lord Chancellor, Lord Keeper or Lords Commissioners only, who alone are to make 10 orders thereupon for discharge or relief of prisoners.

Extended to Court of Exchequer.

And be it further Enacted, That the powers and authorities given by this Act to the Lord Chancellor, shall and may be exercised in like manner by, and are hereby given to His Majesty's Court of Exchequer, and may be exercised by the said Court, or by the Lord 15 Chief Baron thereof ; but such periodical visits only to be made to the Fleet Prison, in regard to prisoners for contempt of the said Court, as the Lord Chief Baron shall direct, and by such officer or officers of the Court as he shall nominate.

Extended to Lord Keeper, or Commissioners of Great Seal of Ireland.

And be it further Enacted, That the powers and authorities given 20 to the Lord Chancellor of Great Britain shall and may be exercised in like manner by, and are hereby given to the Lord Chancellor of Ireland, and the Lord Keeper or Commissioners of the Great Seal of Ireland for the time being, and the Master of the Rolls in Ireland, and to the Court of Exchequer in Ireland ; but such periodical visits 25 only to be made to the prison of the Courts there, as the said last-mentioned Lord Chancellor, Lord Keeper or Lords Commissioners or Chief Baron respectively shall direct, and by such officer or officers of such Courts respectively, as they respectively shall nominate. 30

Rule for the Interpretation of this Act with respect to Number and Gender.

And be it further Enacted, That wherever this Act, in describing or referring to any person, or any conveyance, transfer, matter or thing, uses the word importing the singular number or the masculine gender only, the same shall be understood to include and shall be applied to several persons as well as one person, and females as 35 well as males, and bodies corporate as well as individuals, and several conveyances, transfers, matters or things respectively, as well as one conveyance, transfer, matter or thing respectively, unless there be something in the subject or context repugnant to such construction.

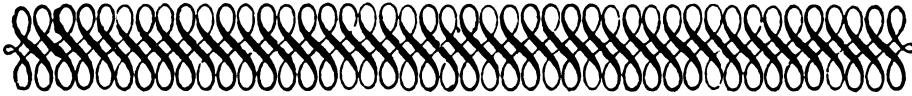
11 GEO. IV.—Sess. 1830.

A

B I L L

For altering and amending the Law regarding
Commitments by Courts of Equity for Con-
tempts, and the taking Bills pro Confesso.

*Ordered, by The House of Commons, to be Printed,
12 February 1830.*



A

B I L L

[AS AMENDED BY THE COMMITTEE]

For altering and amending the Law regarding
Commitments by Courts of Equity for Contempts,
and the taking Bills *pro Confesso*.

Note.—The Clause marked (A.) was added by the Committee.

WH **HEREAS** by two several Acts, the one passed in the Preamble.
fifth year of the reign of his late Majesty *George* the
Second, intituled, “ An Act for making Process in Courts of Equity
“ effectual against Persons who abscond and cannot be served
5 “ therewith, or refuse to appear;” and the other, passed in the
forty-fifth year of the reign of his late Majesty King *George* the
Third, intituled, “ An Act to amend an Act passed in the fourth
“ year of his present Majesty, intituled, ‘ An Act for preventing
“ Inconveniences arising in cases of Merchants and such other
10 “ Persons as are within the description of the Statutes relating to
“ Bankrupts, being entitled to privilege of Parliament and becom-
“ ing insolvent, and to prevent delay in the entering Appearances
“ in Actions brought against Persons having privilege of Par-
“ liament;’ ” certain provisions were made for entering Appear-
15 ances and taking Bills in Equity *pro Confesso* :

And whereas an Act was passed in the forty-ninth year of the reign
of his late Majesty King *George* the Third, intituled, “ An Act for
“ the Relief of Prisoners in custody for non-payment of Money
“ pursuant to Orders of Courts of Equity :”

20 And whereas it is expedient to alter and amend the Law relating
to the Entering of Appearances and the taking of Bills *pro Confesso*,
and to consolidate the Laws on that subject ; and it is also expedient

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to

Acts 5 Geo. 2.
and 45 Geo. 3.
repealed, and
49 Geo. 3.
amended.

to alter and amend the Law relating to Commitments by Courts of Equity for Contempts; ~~BE it therefore Enacted~~, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the whole of the said recited Acts of the fifth year of King *George* the Second, and of the forty-ninth year of King *George* the Third, and so much of the said recited Act of the forty-fifth year of his late Majesty *George* the Third, as relates to Courts of Equity, and the reading of Bills of Discovery as Evidence, shall be and the same are hereby repealed; but so as not to affect any thing done or executed in pursuance thereof respectively; and any suit matter or thing now in progress under the authority of the said Acts respectively and not completed, shall or may be completed under the powers of this Act; and all the powers of this Act shall or may be exercised as well in regard to new suits, commitments, discharges, conveyances, fines, recoveries, matters or things, as to suits, commitments, discharges, conveyances, fines, recoveries, matters or things now subsisting or remaining to be made, done or perfected, whether the powers of the said Acts or any of them respectively shall or shall not have been applied thereto.

Register of
Persons
committed,
to be kept.

And be it further Enacted, That the Warden of the *Fleet* Prison shall keep a Register of the names of the persons from time to time committed by the Courts of Equity for contempts, stating the times when they were committed, and distinguishing them into two classes; (that is to say) The first class to comprise those who are committed by the Court for contempts in open Court, the improper marriage of wards of the Court and the like (whom the Courts, as the law stood before the passing of this Act, had power to discharge of their own authority) and that class to be designated "Prisoners of the Court;" and the second class to comprise those who are committed by the Court for contempts in not answering or the like, (whom the Courts, as the law stood before the passing of this Act, had not power to discharge, without their contempts were cleared, or the consent of the adverse party were obtained,) and such last-mentioned class to be designated "Prisoners of the Suitors."

5 Geo. 2. c. 25.
§

Persons not
appearing,
Appearance
within the
usual time
after Subpœna
and justly sus-

AND whereas sometimes persons have withdrawn themselves beyond the seas, or otherwise absconded, to avoid appearing in Courts of Equity, or, being served with process for that purpose, or being brought into court by habeas corpus, have refused to appear; FOR Remedy of the Inconvenience thence ensuing, Be it further Enacted, That if in any suit which hath been or hereafter shall be commenced in any Court of Equity, any defendant against whom any subpœna or other process shall issue, shall not cause his appearance to be entered upon such process within such time and in such manner as according

according to the rules of the Court the same ought to have been
 entered, in case such process had been duly served, and an affidavit
 or affidavits shall be made to the satisfaction of such Court, that
 such defendant is beyond the seas, or that upon enquiry at his usual
 5 place of abode he could not be found so as to be served with such
 process, and that there is just ground to believe that such defendant
 is gone out of the realm, or otherwise absconded, to avoid being served
 with the process of such Court; then and in such case the Court out
 of which such process issued, may make an order directing and
 10 appointing such defendant to appear at a certain day therein to be
 named, and a copy of such order shall within Fourteen days after
 such order made be inserted in the *London Gazette*, and published
 on some Lord's day immediately after divine service in the parish
 church of the parish where such defendant made his usual abode
 15 within Thirty days next before such his absenting; and also a
 copy of such order shall, within the time aforesaid, be posted up as
 after mentioned (that is to say) a copy of every such order made in
 His Majesty's High Court of Chancery, Court of Exchequer, or the
 Court of the Duchy Chamber of *Lancaster* at *Westminster*, shall
 20 be posted up in some public place at the Royal Exchange in *London*;
 and a copy of every such order made in any of the Courts of Equity of
 the counties palatine of *Chester*, *Lancaster*, and *Durham*, or of the
 Great Sessions in *Wales*, shall be posted up at some public place in
 some market town within the jurisdiction of the Court by which
 25 such order was made, and nearest to the place where such defendant
 made his usual abode as aforesaid, such place of abode being also
 within the jurisdiction of the said Court; and if the defendant do not
 appear within the time limited by such order, or within such further
 time as the Court shall appoint, then on proof made of such publi-
 30 cation of such order as aforesaid, the Court being satisfied of the
 truth thereof, may order the plaintiff's bill to be taken *pro Confesso*,
 and make such decree thereupon as shall be thought just, and may
 thereupon issue process to compel the performance of such decree,
 either by an immediate sequestration of the real and personal estate
 35 and effects of the party so absenting (if any such can be found), or
 such part thereof as may be sufficient to satisfy the demands of the
 plaintiff in the said suit, or by causing possession of the estate or
 effects demanded by the bill to be delivered to the plaintiff, or other-
 wise, as the nature of the case shall require; and the said Court may
 40 likewise order such plaintiff to be paid and satisfied his demands out
 of the estate or effects so sequestered, according to the true intent
 and meaning of such decree, such plaintiff first giving sufficient
 security in such sum as the Court shall think proper, to abide such
 order touching the restitution of such estate or effects as the Court
 shall think proper to make concerning the same, upon the defendant's
 appearance to defend such suit and paying such costs to the plaintiff

pected to
 abscond to
 avoid process;

Court to fix a
 day for his
 appearance, to
 be inserted in
 the Gazette
 and published
 in the Parish
 Church of the
 Defendant,
 and posted in
 some public
 place.

Defendant not
 appearing;

the Plaintiff's
 Bill to be
 taken pro
 Confesso, &c.

as the Court shall order; but in case such plaintiff shall refuse or neglect to give such security as aforesaid, then the said Court shall order the estate or effects so sequestered, or whereof the possession shall be decreed to be delivered, to remain under the direction of the Court, either by appointing a receiver thereof, or otherwise, as to such Court shall seem meet, until the appearance of the defendant to defend such suit, and his paying such costs to the plaintiff as the said Court shall think reasonable, or until such order shall be made therein as the Court shall think just.

5 Geo. 2. c. 25.
§ 3.

Persons in
custody so
refusing, to be
served with a
Copy of the
Decree.

Provided always, and be it further Enacted, That if any person, against whom any decree shall be made upon refusal or neglect to enter his appearance or appoint a clerk in Court or attorney to act on his behalf, shall be in custody or forthcoming, so that he may be served with a copy of such decree, then he shall be served with a copy thereof, before any process shall be taken out to compel the performance thereof.

5 Geo. 2. c. 25.
§ 4.

Persons out of
the Realm
affected by
such Decrees
if they return
within
seven years,
to be served
with a Copy,
or in case of
death, his
heir, &c.

Provided also, and be it further Enacted, That if any decree shall be made in pursuance of this Act, against any person being out of the realm, or absconding in manner aforesaid, at the time such decree is pronounced, and such person shall within Seven years after the making such decree, return, or become publicly visible, then and in such case he shall likewise be served with a copy of such decree within a reasonable time after his return or public appearance shall be known to the plaintiff; and in case any defendant against whom such decree shall be made, shall, within Seven years after the making such decree, happen to die before his or her return into this realm, or appearing openly as aforesaid, or shall within the time last before mentioned die in custody, before his or her being served with a copy of such decree, then his or her heir, if such defendant shall have any real estate sequestered, or whereof possession shall have been delivered to the plaintiff, and such heir may be found, or if such heir shall be a feme covert, infant, or *non compos mentis*, the husband, guardian or committee of such heir respectively, or if the personal estate of such defendant be sequestered, or possession thereof delivered to the plaintiff, then his executor or administrator (if any such there be) may and shall be served with a copy of such decree, within a reasonable time after it shall be known to the plaintiff that the defendant is dead, and who is his heir, executor or administrator, or where he may be served therewith.

5 Geo. 2. c. 25.
§ 5.

If persons
served with
such Copies
shall not peti-
tion a re-
hearing of the
Cause within

Provided always, and be it further Enacted, That if any person so served with a copy of such decree, shall not within Six months after such service appear and petition to have the said cause reheard, such decree so made as aforesaid shall stand absolutely confirmed against the person so served with a copy thereof, his heirs, executors

executors and administrators, and all persons claiming or to claim by, from or under him or any of them, by virtue of any act done or to be done subsequent to the commencement of such suit.

107
six months, the Decree to be absolutely confirmed, and bar all claiming by them.

5 Provided always, and be it further Enacted, That if any person so served with a copy of such decree shall within Six months after such service, or if any person not being so served shall within Seven years next after the making such decree, appear in Court and petition to be heard with respect to the matter of such decree, and shall pay down or give security for payment of such costs as the Court
10 shall think reasonable in that behalf, the person so petitioning or his representatives, or any person claiming under him by virtue of any act done before the commencement of the suit, may be admitted to answer the bill exhibited, and issue may be joined, and witnesses on both sides examined, and such other proceedings, decree and exe-
15 cution may be had thereon, as there might have been in case the same party had originally appeared and the proceedings had then been newly begun, or as if no former decree or proceedings had been in the same cause.

5 Geo. 2. c. 25. § 6.

Defendants petitioning a re-hearing within seven years and giving security for Costs, admitted to answer, and the Cause to be heard again.

20 Provided always, and be it further Enacted, That if any person against whom such decree shall be made, his heirs, executors or administrators, shall not within Seven years next after the making of such decree, appear and petition to have the cause re-heard, and pay down or give security for payment of such costs as the Court shall think reasonable in that behalf, such decree made as aforesaid shall
25 stand absolutely confirmed against the person against whom such decree shall be made, his heirs, executors and administrators, and against all persons claiming or to claim by, from or under him, or any of them, by virtue of any act done or to be done subsequent to the commencement of such suit; and at the end of such Seven years
30 it shall and may be lawful for the Court to make such further order as shall be just and reasonable, according to the circumstances of the case.

5 Geo. 2. c. 25. § 7.

Not appearing within seven years, and making such Petition, to be absolutely barred.

35 Provided always, and be it further Enacted, That this Act shall not extend or be construed to extend to warrant or make good any proceeding against any person beyond the seas, unless it shall appear to the satisfaction of the Court, by affidavit or affidavits before the making of such decree, that such person had been in that part of
Great Britain called *England* within Two years next before the sub-
pœna in such suit issued against such person.

5 Geo. 2. c. 25. § 8.

Not to affect persons beyond the seas, unless, &c.

40 Provided also, and be it further Enacted, That the provisions hereinbefore contained shall not extend or be construed to extend to warrant or make good any proceeding against any person in any Court of

5 Geo. 2. c. 25. § 9.

Not to extend to Courts having a limited jurisdiction, unless oath be made

of residence
in such juris-
diction one
year before
subpœna : see
further
12 Geo. 2,
c. 24 ;
23 Geo 2,
c. 25.

5 Geo. 2,
c. 25, s. 2. as
altered.

Defendants
brought into
Court by Ha-
beas Corpus,
or in custody,
and refusing
to enter ap-
pearance,
Court to enter
it for them.

Equity having a limited jurisdiction, unless it shall appear to the satisfaction of such Court by affidavit, before the making of such decree, that such person had resided within the jurisdiction of such court within one year next before the subpœna in such suit issued against such person.

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And be it further Enacted, That from and after the passing of this Act, if any defendant, by virtue of any writ of Habeas Corpus or other process issuing out of any Court of Equity, shall be brought into Court, and shall refuse or neglect, or being within the walls of any prison in *England* under or charged with an attachment or other process of contempt, shall, after Fourteen days previous notice in writing requiring him to enter an appearance, refuse or neglect to enter his appearance according to the rules or method required by the said Court, or to appoint a clerk in Court or attorney of such Court to act on his behalf, such Court may appoint a clerk in Court or attorney of such Court to enter an appearance for such defendant, and such proceedings may thereupon be had in the cause as if the party had actually appeared.

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45 Geo. 3,
c. 124, § 4.

Appearances
may also be
put in for de-
fendants hav-
ing privilege
of Parliament
in Courts of
Equity, on re-
turn of pro-
cess of se-
questration.

AND whereas in many cases persons having privilege of Parliament are named as defendants in suits instituted in Courts of Equity against them, either alone or jointly with other persons, for enforcing against them demands and duties cognizable in Courts of Equity, and in some cases such defendants having privileges of Parliament have stood out to the return of process of sequestration issued against them for enforcing appearance, and such process of sequestration hath not been found sufficient to enforce such appearance ; BE it therefore Enacted, That from and after the passing of this Act, in case any defendant having privilege of Parliament, shall, upon a return of process of sequestration issued against him for not putting in an appearance to any original or other bill of complaint instituted against him in a Court of Equity for enforcing discovery and relief, or discovery alone (as the case may be,) neglect to appear, that then and in such case such Court, upon producing the return of such sequestration in Court, may on the motion or other application of the plaintiff in such cause, appoint a clerk in Court to enter an appearance for such defendant so having privilege of Parliament, and such proceedings may be thereupon had in the cause as if the party had actually appeared.

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45 Geo. 3,
c. 124, § 5.

In default of
answer to Bill
in Equity
against per-
sons having
privilege of
Parliament,
Bill shall be
taken pro
confesso.

AND whereas in many cases it is necessary on the part of the persons having legal rights against persons having privilege of Parliament, to proceed by bill in equity against such persons so having privilege of Parliament, to obtain from them discovery on oath of facts intended to be used or given in evidence in Courts of Law against the persons making such discovery ; and in cases where such

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such persons having such privilege as aforesaid, shall stand out process of contempt, parties entitled to such discovery against them have not sufficient means of compelling or obtaining the same in all cases; BE it therefore Enacted, That from and after the passing of
 5 this Act, when any defendant having privilege of Parliament shall have appeared to any bill filed against him seeking a discovery upon oath, or when an appearance shall have been entered for such defendant according to the provisions aforesaid, and such person shall refuse or neglect to put in his answer to such bill within the
 10 time for that purpose allowed by the rules and orders of such Court, that then it shall and may be lawful for the plaintiff in such suit to apply to the Court for an order that such bill shall be taken *pro confesso* against such defendant, and upon such application such Court of Equity shall make an order that such bill shall
 15 be taken *pro confesso* unless the defendant shall within *Eight* days after being served with such order shew good cause to the contrary.

And be it further Enacted, That when and so soon as any such order shall have been pronounced by any such Court of Equity for
 20 taking such bill *pro confesso*, such bill in equity, or an examined copy thereof, so taken *pro confesso* shall be taken and read in any Court of law or equity as evidence of the facts, and matters and things therein contained, in the same manner as if such facts, matters and things had been admitted to be true by the answer of the defendant
 25 put into such bill; and such bill so taken *pro confesso* shall be received and taken in evidence of such and the same facts, and on behalf of such and so many persons, as the answer of the defendant to the said bill could and might have been read and received in evidence of, in case such answer had been put in by the defendant
 30 thereto, and had admitted the same facts, matters and circumstances as in such bill stated and set forth; and in like manner every other bill of discovery taken *pro confesso*, under any of the provisions of this Act, shall or may be taken and read as evidence of the facts and matters and things therein contained, to the extent aforesaid.

45 Geo. 3,
c. 124, § 6.

Such Bill shall be read in evidence as an answer admitting the facts.

35 AND for remedying the Practice of Courts of Equity in regard to process of Contempt and the taking of Bills *pro confesso*; BE it further Enacted, That the rules and regulations hereinafter provided and contained shall be adopted by the High Court of Chancery, and shall from henceforth become orders and rules of the said Court of Chancery, and be observed and enforced in and by the said Court; (that is to say,)

Appointment of Rules for Courts of Equity.

1. That when a writ of attachment shall have duly issued against any defendant for contempt in not answering the bill, and such defendant shall not have been taken under such writ, and
 77. the

the sheriff of the county into which such writ shall have issued shall make a return of *Non est inventus* to the same, the Court shall, upon motion by or on behalf of the plaintiff, (notice of which shall not be required,) order that the serjeant-at-arms attending the Court do apprehend such defendant and bring him to the bar of the Court to answer his contempt, and the same proceedings may thereupon be had as if such order had been made in the manner heretofore in use; provided that before such order shall in any such case be made, the plaintiff applying for the same shall be required to satisfy the Court, by the affidavit of the solicitor of the plaintiff, or of his town agent, if the writ of attachment was issued by such town agent, that due diligence was used to ascertain the place where such defendant was at the time of issuing such writ, and in endeavouring to apprehend such defendant under the same, and that the person suing forth such writ verily believed at the time of suing forth the same that such defendant was in the county into which such writ was issued.

2. That if any defendant, being in contempt for not answering the bill, shall have been brought to the bar of the Court under process for such contempt, and shall have been committed or remanded back to the prison of the *Fleet*, the plaintiff may sue forth the writ of Habeas Corpus in the manner and form heretofore in use in the like cases, provided that there shall be at least Twenty-eight days between the day on which such defendant was so committed or remanded back and the return of such writ of Habeas Corpus, and upon or after the return of such writ of Habeas Corpus, in case such defendant shall not have put in his answer, the Court shall order the bill to be taken *pro confesso* against such defendant, in the same manner as is now usual in the like cases upon the return of a writ of *Alias pluries* habeas corpus, and such decree shall thereupon be made as shall be thought just; but in regard to any defendant in custody before and at the time of the passing of this Act, there shall be at least Thirty days between the time of passing this Act and the return of such last-mentioned writ of Habeas Corpus; and in no case of any defendant now in custody as aforesaid, who shall have been brought to the bar of the Court as aforesaid, shall it be necessary to sue forth more than one writ of Habeas Corpus, in order to take the bill *pro confesso* and whenever a defendant in contempt shall appear in Court, the Judge presiding shall admonish him, and state to him the consequences of his persisting in his contempt.
3. That the party prosecuting any contempt, shall be at liberty, without order, to sue forth the several writs in process of contempt, returnable immediately in case the party in contempt resides

resides or is in *London* or within twenty miles thereof; and that in other cases, the party prosecuting a contempt shall be at liberty, without order, to sue forth such several writs, returnable in vacation, provided that there be Fifteen days between the teste and the return of each of such writs.

4. That where a defendant is confined for a misdemeanor and has been brought before the Court upon an Habeas Corpus, and thereupon has been turned over to the *Fleet pro forma*, but has been carried back to the prison from whence he came, with his cause, another writ of Habeas Corpus may issue, directed to the gaoler or keeper of the prison to which he has been carried back, and thereupon the defendant shall be brought into Court and remanded to the prison from whence he came, with his cause, without being turned over again to the *Fleet* prison, and the bill may be taken *pro confesso*, in the same manner in all respects as if the defendant had been all along in the custody of the warden of the *Fleet*.

5. That where any defendant, being in contempt for not answering, shall put in his answer, such defendant may forthwith, upon motion or petition, without notice, obtain an order to be discharged from such contempt, upon payment or tender of the costs thereof; but in case such answer shall be insufficient, the plaintiff shall be at liberty to take up the process of contempt at the point to which he had before proceeded, and to proceed thereon notwithstanding the costs thereof may have been received, in the same manner as if such costs had not been received.

6. That if the defendant, under process of contempt for not appearing or not answering, be in actual custody, and shall not have been sooner brought to the bar of the Court under process to answer his contempt, the plaintiff, if the contempt be not sooner cleared, shall bring the defendant by an Habeas Corpus to the bar of the Court within Thirty days from the time of his being actually in custody, or detained (being already in custody) upon process of contempt, and if the last day of such Thirty days shall happen out of Term, then within the Four first days of the ensuing Term; and where the defendant is in custody of the serjeant at arms, or of the messenger, upon an attachment or other process, the plaintiff shall, within Ten days after his being taken into such custody, or if on the last of such Ten days the Court shall not be actually sitting for the dispatch of business, then on the first and next day on which the Court shall actually sit for that purpose, cause the defendant to be brought to the bar of the Court; and in case any such defendant shall not be brought to the bar of the Court within the respective times aforesaid, the

sheriff, gaoler or keeper, serjeant at arms or messenger, in whose custody he shall be, shall thereupon discharge him out of custody without payment by him of the costs of contempt, which shall be payable by the party on whose behalf the process issued; and this rule shall apply to every defendant in custody before and at the time of passing of this Act, who shall not have been brought to the bar of the Court; but the Thirty days allowed in the first above-mentioned case, and the Ten days allowed in the second above-mentioned case, shall be reckoned from the expiration of Fourteen days next after the passing of this Act. 10

7. That if a defendant, upon being brought before the Court upon an Habeas Corpus, shall make oath (which shall be administered to him by the registrar, and he shall be examined in open Court) that he is unable by reason of poverty to employ a solicitor to put in his answer, the Court shall thereupon refer it to a Master in rotation and one of the King's counsel practising in that Court, or during Term time, to two of such King's counsel without a Master, to inquire *instantly* into the truth of that allegation, and to report thereon to the Court *viva voce*, and thereupon the Court may make such order as upon other reports of the like nature under the provisions hereinafter contained. 15 20

8. That on the Thirtieth day of January, the Thirtieth day of April, the Thirtieth day of July, and the Thirtieth day of October, in every year, or if any of those days happen on a Sunday; then on the following day, one of the Masters of the Court of Chancery, to be named by the Court, and the junior King's counsel practising there, or in case of his absence or illness some one other of such King's counsel to be named by the Court, shall visit the *Fleet* Prison, and examine the prisoners confined there for contempt, and shall report their opinion thereon to the Court; and thereupon it shall be lawful for the Court to order, if it shall see fit, that the costs of the contempt of any such prisoner shall be paid out of the interest and dividends arising from the several Government or Parliamentary securities standing in the name of the Accountant-general of the said Court of Chancery, intituled, "Account of Monies placed out for the benefit and better security of the Suitors of the High Court of Chancery," and "Account of Securities purchased with surplus interest arising from Securities carried to an account of Monies placed out for the benefit and better security of the Suitors of the High Court of Chancery," or out of any cash standing to either of such accounts, or to any other account which is now or hereafter may be standing to the credit of the suitors of the said Court of Chancery, (after and subject to the payment of all 30 35 40

all charges which by any Act heretofore passed are directed to be paid thereout,) and to assign a solicitor and counsel to such prisoner, for putting in his answer and defending him *in formâ pauperis*, and to direct any such prisoner having previously done such acts as the Court shall direct, to be discharged out of custody; provided that if any such defendant become entitled to any funds out of such cause, the same shall be applied in the first instance to the reimbursement of the suitors fund.

9. That it shall be lawful for the Master and King's counsel visiting the *Fleet*, or to whom the case of a prisoner shall be referred by the Court itself, to examine the prisoner and all other persons whom they may think it proper to examine, upon oath, and to administer an oath or oaths to any such prisoner and other persons accordingly; and to cause any officers, clerks and ministers of any Court of Law or Equity, to bring and produce upon oath before them, any records, orders, books, papers or other writings belonging to the said Courts, or to any of the officers within the same as such officers.

10. That if it shall appear to the satisfaction of the Court, that any such prisoner is a lunatic, although no commission has issued, the Court shall appoint a guardian to put in his answer and discharge the defendant, providing for the costs in any of the ways pointed out by this Act, as shall seem just; and if the Court shall see fit, such defence may be made *in formâ pauperis*.

11. That where the defendant has been brought to the bar of the Court for his contempt in not answering, and refuses or neglects to answer (not being a lunatic) the Court may, upon motion or petition, of which due notice shall be given personally to the defendant, authorize the plaintiff to amend his bill, without such amendment operating as a discharge of the contempt, or rendering it necessary to proceed with the process of contempt *de novo*; but after such amendment the plaintiff may proceed to take the amended bill *pro confesso*, in the same manner as if it had not been amended: Provided nevertheless, That if the defendant shall be desirous to answer such amended bill, the Court shall allow him such time as shall seem just for that purpose; but if he shall not within the time allowed by the Court put in a sufficient answer to the amended bill, the process for taking the bill *pro confesso* may be resumed and carried on; and if a sufficient answer is put in within the time aforesaid the cause shall proceed regularly, and the defendant shall, by the order of the Court, be discharged of his contempt, upon payment or tender of the costs of the contempt.

12. That in every case where the defendant has been brought to the bar of the Court to answer his contempt for not answering,
and

and shall refuse or neglect to answer within the next Twenty-one days, the plaintiff shall be at liberty, with the leave of the Court, upon Three days previous notice to the defendant after the expiration of such Twenty-one days, unless good cause be shown to the contrary, instead of taking his bill *pro confesso*, to put in such an answer to the bill as hereinafter is mentioned, in the name of the defendant, without oath or signature ; and thereupon the suit shall proceed just as if such answer were really the answer of the defendant, with which the plaintiff was satisfied ; and the costs of the contempt and of putting in such answer may be provided for in like manner as if the defendant himself had put in such answer ; and such answer, besides the formal parts thereof, shall be to the following effect, That the defendant leaves the plaintiff to make such proofs of the several matters in the bill alleged, as he shall be able or be advised, and submits his interests to the Court.

13. That in any case where, upon the application of the plaintiff, the Court shall be satisfied that justice cannot be done to the plaintiff, without an answer to the bill or to the interrogatories from the defendant himself, it shall be lawful for the Court to order the defendant to remain in custody until answer or further order, but without prejudice to the plaintiff's availing himself of any of the provisions of this Act.
14. That where the defendant is in contempt for not appearing or not answering, and in actual custody under process for such contempt, or being already in custody shall be detained by an attachment for such contempt, and shall not, where the contempt is for not appearing, enter an appearance within Twenty-one days after he is lodged in gaol or prison, or the attachment is lodged against him, (he being already in prison,) as the case may be, or where the contempt is for not answering, put in an answer within Two calendar months after he is lodged in gaol or prison or the attachment is lodged against him, he being already in prison, the plaintiff shall (as the case may be) within Fourteen days after the period computed from the expiration of such Twenty-one days within which he may by the provisions of this Act be able to enter such appearance, cause an appearance to be entered for the defendant under the powers of this Act, and shall at the expiration of such Two calendar months proceed to take the bill *pro confesso*, and shall accordingly obtain an order for taking the same *pro confesso* within Six weeks after the period, computed from the expiration of such Two calendar months, within which he may be able to take the same *pro confesso*, or in default of so doing in either of such cases, the defendant shall, upon application to the Court, be entitled to be discharged out of custody, without paying any of the

the costs of the contempt, unless the Court shall, under the power hereinbefore contained, see good cause to remand and detain the defendant in custody ; and this rule shall apply to every defendant in custody before and at the time of the passing of this Act, who shall not have entered his appearance, and for whom an appearance shall not have been entered, or shall not have answered the bill, and the bill shall not have been taken *pro confesso*, but the Twenty-one days and Two calendar months respectively to be reckoned from the time of passing this Act, and the other periods to be altered accordingly in computation ; but nothing in this Act shall prevent any plaintiff from proceeding to take his bill *pro confesso*, according to the practice existing before the passing of this Act, where at the time of passing of this Act his proceedings shall be so far advanced that the powers of this Act would not enable him to accelerate the period for taking his bill *pro confesso*.

15. That where the bill is filed for the foreclosure of a mortgage, and the defendant upon being brought into Court upon an Habeas Corpus refuses to answer, or submitting to answer shall not put in a sufficient answer within the next fourteen days, it shall be lawful for the Court, upon the motion of the plaintiff, of which Six days previous notice shall be served on the defendant personally, and upon proof by affidavit to the satisfaction of the Court of the execution of the mortgage in question in the cause, and of the plaintiff's title thereto, to order an immediate sale before one of the Masters of the said Court of the mortgaged premises, and to direct the usual accounts to be taken as between mortgagor and mortgagee, and thereafter to direct the application of the purchase money according to the rights of the different parties, as may be just ; and upon the pronouncing of any such order for sale the defendant shall stand discharged of his contempt, except so far as regards the payment of the costs of it, which in the discretion of the Court may be made costs in the cause, or he may be left in custody for the same, subject to be discharged therefrom under any of the provisions of this Act.

16. That where a defendant is in custody for contempt in not answering, and shall be able to put in his answer by borrowing or obtaining a copy of the bill, without taking an office copy of the bill, he shall not be compellable to take any such copy, but the clerk in Court may (if he think the defendant is of sufficient ability to pay for an office copy) require him, before the answer is filed, to make an affidavit denying his ability in consequence of poverty to pay for an office copy of the bill.

17. That when any person shall have been directed by any decree or order to execute any deed or other instrument, or make a

- surrender, or transfer any stock or the like, or to levy a fine or suffer a recovery, and shall have refused or neglected to execute, make or transfer, or levy or suffer the same, and shall have been committed to prison under process for such contempt, or, being confined in prison for any other cause, shall have been charged with or detained under process for such contempt, and shall remain in such prison, the Court may upon motion or petition, and upon affidavit that such person has after the expiration of Two calendar months from the time of his being committed under or charged with, or detained under such process, again refused to execute such deed or instrument, or make such surrender or transfer, or levy, or suffer such fine or recovery, order or appoint one of the Masters in Ordinary, or if the act is to be done out of *London*, then if necessary one of the Masters Extraordinary to execute such deed or other instrument, or to make such surrender or transfer for and in the name of such person, and to levy such fine or suffer such recovery in his name, and to do all acts necessary to give validity and operation to such fine and recovery, and to lead or declare the uses thereof; and the execution of the said deed or other instrument, and the surrender or transfer made by the said Master, and the fine or recovery levied or suffered by him, shall in all respects have the same force and validity as if the same had been executed or made, levied or suffered, by the party himself; and within Ten days after the execution or making of any such deed or other instrument, or surrender, or transfer, or levying or suffering such fine or recovery, notice thereof shall be given by the adverse solicitor, to the party in whose name the same is executed or made; and such party, as soon as the deed or other instrument, or surrender, transfer, fine or recovery shall be executed, made, levied or suffered, shall be considered as having cleared his contempt, except as far as regards the payment of the costs of the contempt, and shall be entitled to be discharged therefrom under any of the provisions of this Act applicable to his case; and the Court shall make such order as shall be just, touching the payment of the costs of or attending any such deed, surrender, instrument, transfer, fine or recovery.
18. That where a person shall be committed for a contempt in not delivering to any person or persons, or depositing in Court or elsewhere, as by any order may be directed, books, papers or any other articles or things, any sequestrator or sequestrators appointed under any commission of sequestration, shall have the same power to seize and take such books, papers writings or other articles or things, being in the custody or power of the person against whom the sequestration issues, as they would have over his own property; and thereupon such articles or things so seized and taken, shall be dealt with by the Court as shall be just;

just ; and after such seizure it shall be lawful for the Court, upon the application of the prisoner, or of any other person in the cause or matter, or upon any report to be made in pursuance of this Act, to make such order for the discharge of the prisoner, upon such terms, and if it shall see fit, making any costs in the cause, as to the Court shall seem proper.

19. That in any other case of a commitment for contempt, not herein specially provided for, the Court may upon any such application as last aforesaid, or upon any such report as aforesaid, make such order for the discharge of the prisoner, upon any such terms, and making, if the court shall see fit, any costs in the cause as to the Court shall seem proper.

20. That where any person committed for a contempt shall be entitled to his discharge upon applying to the Court, but shall omit to make such application, the Court may upon any such report as aforesaid compulsorily discharge such person from the contempt and from custody, and pay the costs of the contempt out of any funds belonging to him over which the Court may have power, or make them costs in the cause as against him, or may discharge him from the contempt, but leave him in custody for the costs which may be cleared if he be insolvent, under the provisions hereinafter contained in that behalf.

21. That where any party obstinately retains possession of lands or other real property, after a writ of execution of a decree or an order for delivery of possession has been duly served and demand of possession made, and upon an affidavit of such service of the writ of execution, and of such demand made thereunder, and a refusal to comply therewith on the part of the person against whom the writ issued, the party issuing it shall be at liberty, upon an affidavit of service of the writ of execution and demand of possession and refusal, to obtain the usual order of course for the writ of assistance to issue, and that the intermediate writs of attachment and injunction further commanding the party to deliver possession, or any other writ, shall be unnecessary.

22. That in order to relieve persons in prison from the expense of a Master's attendance to take affidavits or answers, the Lord High Chancellor do, by one or more commission or commissions under the great seal, nominate and appoint the warden, keeper or other chief officer of every prison within the city of London, or the bills of mortality, and their deputies, to be Masters Extraordinary of the High Court of Chancery, for the purpose of taking and receiving all and every such affidavits and answers as any person or persons within any such prison shall be willing or desirous to make before any such persons, in or concerning

concerning any cause matter or thing depending or hereafter to be depending in the High Court of Chancery, or in any matter of bankruptcy, and for no other purpose ; and the person so taking such affidavit or answer shall in respect thereof be entitled to receive a fee of One shilling and no more ; and the Court of Exchequer shall in like manner appoint such persons as aforesaid, a commissioner or commissioners of the said Court, for the purposes aforesaid, and no others, and with the right to the like fee, and no more ; and in every case of an answer being sworn in prison, a clerk of a Master or Baron, (as the case may require) shall attend to make and carry back to and from the prison the answer, and shall in respect thereof be entitled to a fee of Three shillings, and no more.

And be it Enacted, That the discharge of any prisoner adjudicated upon under the authority of an Act passed in the seventh year of His present Majesty's reign, intituled, " An Act to amend and consolidate the Laws for the relief of Insolvent Debtors in *England*," or any other Act which may hereafter be passed for the relief of Insolvent Debtors, shall and may extend to all process issuing from any Court of Equity, for any contempt of such Court for nonpayment of money, or of costs, charges or expenses in any such Court; and that in such case, the said discharge shall be deemed to extend to all costs which such prisoner shall be liable to pay in consequence or by reason of such contempt, or on purging the same ; and that every discharge so adjudicated as aforesaid, as to any debt or damages of any creditor of such prisoner, shall be deemed to extend also to all costs incurred by such creditor, before the filing of such prisoner's schedule, in any action or suit brought by such creditor against such prisoner for the purpose, for the recovery of the same ; and that all persons as to whose demands for any such costs, money or expenses, any such person shall be so adjudged to be discharged, shall be deemed and taken to be creditors of such prisoner in respect thereof, and entitled to the benefits of all the provisions made for creditors by the said Act or any future Act ; subject nevertheless to such ascertaining of the amount of the said demands as may be had by taxation or otherwise, and to such examination thereof as is in the said last-mentioned Act or as shall be in any future Act provided in respect of all claim to a dividend of such insolvent's estate and effects.

7 Geo. 4, c. 57,
§ 50.
Discharge
may extend to
Process for
Contempt in
non-payment
of Money,
and to Costs
incurred by
Creditor, but
subject to tax-
ation.

And be it further Enacted, That where the process of contempt is for the non-performance of an act, for example, the not answering the plaintiff's bill, and the bill in equity to which the insolvent is a party is taken *pro confesso*, and he has not paid the costs of the contempt, or the insolvent has fully answered the plaintiff's bill or interrogatories

or

or otherwise cleared his contempt, except as far as regards the payment of the costs, or it has become in event unnecessary for him to do the act for the non-performance of which he was committed or attached, the Court of Equity in which the suit is depending shall, upon the application of the party in contempt, discharge him from the same, except as to the costs thereof, for which he shall remain in custody, and such costs shall be deemed within the provision lastly hereinbefore contained, and he shall be dischargeable therefrom, and from the process of contempt, in like manner as if the process of contempt were for non-payment of money or costs; provided that this order or regulation shall not weaken any of the other powers by this Act given, nor shall any thing herein contained lessen the operation of the said Act for the relief of insolvent debtors.

15 AND whereas it is just and highly expedient that the benefit of an Act passed in the thirty-second year of the reign of King *George* the Second, intituled, "An Act for relief of Debtors with respect to
20 "the Imprisonment of their Persons, and to oblige Debtors who shall continue in execution in Prison beyond a certain time, and
"for Sums not exceeding what are mentioned in the Act, to make discovery of and deliver upon oath their Estates for their
"Creditors' benefit;" and of an Act passed in the thirty-third year of the reign of his late Majesty, intituled, "An Act for the
25 "further relief of Debtors with respect to the Imprisonment of their Persons, and to oblige Debtors who shall continue in execution in
"Prison beyond a certain time, and for Sums not exceeding what are mentioned in the Act, to make discovery of and deliver upon
"oath their Estates for their Creditors' benefit;" and of an Act, passed in the thirty-seventh year of the reign of his late Majesty,
30 intituled, "An Act to amend so much of an Act made in the thirty-second year of the reign of King *George* the Second, intituled,
" 'An Act for the relief of Debtors with respect to the Imprisonment of their Persons, and to oblige Debtors who shall continue
"in execution in Prison beyond a certain time, and for Sums not exceeding what are mentioned in the Act, to make discovery of
35 "and deliver upon oath their Estates for their Creditors' benefit, as relates to the weekly Sums thereby directed to be paid to Prisoners
"in execution for Debt, in the cases therein mentioned,"' should be extended to prisoners in custody for contempt of Court, by not
40 paying money ordered to be paid by decrees or orders of Courts of Equity; BE it therefore further Enacted, That from and after the passing of this Act, all persons who are or shall be in custody for contempt of any Court of Equity, by not paying any sum or sums of money or costs ordered to be paid by any decree or order of any such Court, shall be entitled to the benefit of the said several Acts of

32 Geo. 2.
c. 28.

33 Geo. 3.
c. 5.

37 Geo. 3.
c. 85.

Persons in custody for contempt of Courts of Equity, for non-payment of Money or Costs, shall be entitled to the benefit of the recited Acts.

Parliament, and shall be subject to all the same terms and conditions as are therein expressed and declared with respect to prisoners for debt only ; and that it shall be lawful for persons now in custody for such contempt, to make application for relief under the said Acts of Parliament, at anytime before the end of Michaelmas term next. 5

Powers extended to Lord Keeper.

And be it Enacted, That the powers and authorities given by this Act to the Court of Chancery, or to the Lord Chancellor of *Great Britain*, shall and may be exercised as well by such Lord Chancellor as by (and they are hereby given to) the Lord Keeper or Commissioners of the Great Seal of *Great Britain* for the time being, and to 10 the Master of the Rolls and Vice Chancellor respectively ; but the reports of Visitors of the *Fleet* shall be made to the Lord Chancellor, Lord Keeper or Lords Commissioners only, who alone are to make orders thereupon for discharge or relief of prisoners.

CLAUSE (A.)
Court of Chancery
Rules to be adopted by Court of Exchequer.

And be it further Enacted, That such of the rules hereinbefore 15 directed to be adopted by the Court of Chancery, as are numbered from Six to Twenty-two, both inclusive, shall be adopted by the Court of Exchequer, which Court shall for the purposes of this Act, draw upon the Suitors' Fund of that Court, and shall also be adopted by the Courts of Chancery and Exchequer in *Ireland*, each Court 20 drawing upon the fund within its own power.

Extended to Court of Exchequer.

And be it further Enacted, That the powers and authorities contained in such last-mentioned rules, and given by this Act to the Lord Chancellor, shall and may be exercised in like manner by, and are hereby given to His Majesty's Court of Exchequer, and may 25 be exercised by the said Court, or by the Lord Chief Baron thereof ; but such periodical visits only to be made to the *Fleet* Prison, in regard to prisoners for contempt of the said Court, as the Lord Chief Baron shall direct, and by such officer or officers of the Court as he shall nominate. 30

Extended to Lord Keeper, or Commissioners of Great Seal of Ireland.

And be it further Enacted, That the powers and authorities contained in such last-mentioned rules, and given to the Lord Chancellor of *Great Britain* shall and may be exercised in like manner by, and are hereby given to the Lord Chancellor of *Ireland*, and the Lord Keeper or Commissioners of the Great Seal of *Ireland* for the time 35 being, and the Master of the Rolls in *Ireland*, and to the Court of Exchequer in *Ireland* respectively ; but such periodical visits only to be made to the prison of the Courts there, as the said last-mentioned Lord Chancellor, Lord Keeper or Lords Commissioners or Chief Baron respectively shall direct, and by such officer or officers of such Courts respectively, as they respectively shall nominate.

And

Rule for the
Interpretation
of this Act
with respect
to Number
and Gender.

And be it further Enacted, That wherever this Act, in describing or referring to any person, or any conveyance, transfer, matter or thing, uses the word importing the singular number or the masculine gender only, the same shall be understood to include and shall
5 be applied to several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, and several conveyances, transfers, matters or things respectively, as well as one conveyance, transfer, matter or thing respectively, unless there be something in the subject or context repugnant to such construction.

11 GEO. IV.—Sess. 1830.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

For altering and amending the Law regarding
Commitments by Courts of Equity for Con-
tempts, and the taking Bills *pro Confesso*.

Ordered, by The House of Commons, to be Printed,
24 February 1830.



A

B I L L

[AS AMENDED BY THE COMMITTEE]

For Establishing Courts of Local Jurisdiction.

W ~~H~~ ~~E~~ ~~R~~ ~~E~~ ~~A~~ ~~S~~ it is expedient that the means should be afforded Preamble.
to the People of this Realm, of having their Suits tried as

speedily and as near to their own homes as may be, whereby Expense,
Vexation and Delay may be avoided : And whereas it is fitting that at

5 the first the Provisions for this purpose should be confined to certain
parts of the Country, to the end that the rest thereof may profit of the
improvements suggested by experience, when the same shall be extended
over the whole of the Kingdom ; and that the due administration of

10 Justice, wherein doth chiefly stand the strength and happiness of
nations, may be placed upon a sure foundation ; ~~Be it Enacted~~, by
The KING's most Excellent MAJESTY, by and with the advice and
consent of the Lords Spiritual and Temporal, and Commons, in this
present Parliament assembled, and by the Authority of the same,

15 THAT it shall be lawful for His Majesty to nominate and appoint by
Commission under the Great Seal, one Serjeant at Law, or one Barrister
of ten years standing, for the County of *Kent*, to be called the Judge in
Ordinary of the said County ; and one other Serjeant at Law, or Bar-
rister of ten years standing, for the Counties of *Northumberland* and
Durham, to be called the Judge in Ordinary of the said Counties ; and
20 to allot to each of the said Judges a salary not exceeding One thousand
five hundred pounds by the year, to be paid out of

King may ap-
point Judges
in Ordinary
for districts.

together with such portion of

568.

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the

the fees to be hereinafter specified and set forth in Schedule (A.) hereunto annexed, as His Majesty with the advice of His Privy Council may at the end of one year from and after the passing of this Act appoint, so as the whole may not exceed Two thousand pounds by the year.

Monthly
Courts.

II. And be it further Enacted, That the said Judges shall hold their Courts for the trial of causes once every month, except the month of August; and shall appoint the times for holding their said Courts by a notification in the *London Gazette*, such times not being the times for holding the assizes or the quarter sessions of the peace within the said counties; and after notice shall so have been given of the times for holding the said Courts, the same shall not be altered without the authority of His Majesty by and with the advice of His most Honourable Privy Council. 5 10

Circuits in
the districts.

III. And be it Enacted, That the said Judge for the county of *Kent* shall hold his Court four times in the year at *Maidstone*; twice at *Rochester*, and by adjournment at *Ramsgate*; twice at *Dover*, and by adjournment at *Canterbury*; twice at *Gravesend*, and by adjournment at *Dartford*, and once at *Romney*; and by adjournment at *Hythe*: And that the said Judge for the counties of *Northumberland* and *Durham*, shall hold his Court four times in the year at *Newcastle-upon-Tyne*, and by adjournment at *North Shields*; three times at *Durham*, and by adjournment at *Sunderland*; twice at *Darlington* and by adjournment at *Stockton*; and twice at *Alnwick*, and by adjournment at *Hexham*; And the said Judges shall appoint the order in which the said Courts shall be holden at the said places throughout the year, and give notice thereof in the *London Gazette*, which order shall not be altered without the authority of His Majesty by and with the advice of His most Honourable Privy Council. 15 20 25

Judges to be
in Commission
of the Peace
and of Oyer
and Terminer.

IV. And be it Enacted, That the said Judges in Ordinary shall be empowered in all matters to act as, and shall be Justices of the Peace for the county or counties for which they shall be appointed Judges in Ordinary, and for the counties adjoining thereunto, and shall be in the commissions of oyer and terminer and general goal delivery which may from time to time be issued for the county or counties in which they are appointed to act as Judges in Ordinary. 30 35

Registrars.

V. And be it Enacted, That for each of the said Judges it shall be lawful for His Majesty to appoint one fit and proper person to be the Registrar of the Court to be holden by the said Judge, and to allot him a salary to be paid out of not exceeding Four hundred pounds by the year, together with such portion of the fees to be hereinafter mentioned, as His Majesty by and with the advice of His Privy Council shall appoint, one year from and after 40

after the passing of this Act, so as the said salary and emoluments shall in no case exceed the sum of Seven hundred pounds by the year.

VI. And be it Enacted, That each of the said Judges shall and may appoint a fit and proper person to be the Crier, and two fit and proper
 5 persons to be the Messengers and Ushers of the said Courts, and to allot to them the salaries following; that is to say, Eighty pounds to the crier, and Fifty pounds to each of the messengers and ushers, with such fees for the service of process as are set forth in the Schedule (B.) hereunto annexed; and in case it shall happen that the service of the said
 10 Court shall require any extra messengers to be appointed, then each of the said Judges shall have power to appoint such number of fit and proper persons from among the bound bailiffs to the sheriffs, to be extra messengers, as may appear to the said Judges to be necessary, with the approbation of His Majesty's principal Secretary of State for the
 15 Home Department, which said extra messengers shall take their turn with the messengers and ushers, and receive the same fees for service of process, according to the Schedule (B.) hereunto annexed: Provided always, That the person or persons appointed ushers and messengers shall find security to the satisfaction of the said Judge to the amount of
 20 Two hundred pounds, to discharge their duties faithfully.

Criers,
Ushers, and
Messengers.

VII. And be it Enacted, That the said Registrars shall and may
 appoint, each of them, one fit and proper person to be his Clerk, and
 allot him a sum not exceeding one-fourth part of his own salary, such
 sum to be paid out of
 25 with a sum not exceeding one-third part of the portion allotted to himself from the fees hereinafter mentioned and set forth in Schedule (A.)
 such sum to be paid out of the said fees.

Clerks.

VIII. And be it Enacted, That the said Judges and the said Registrar shall hold their offices as long as they shall well behave themselves
 30 therein, and shall not be removed therefrom unless the Two Houses of Parliament shall present a joint address to His Majesty praying for such removal: Provided always, That in case either of the said Judges or Registrars shall have served in his said office for the space of Fifteen years complete, and have attained the age of sixty years complete, or not
 35 having so long served or not being of such age, shall appear incapable of longer serving, through some permanent infirmity, by the certificate, sworn upon oath, of two physicians, after being examined upon oath before the Lord High Chancellor for the time being (which oath the said Lord High Chancellor is hereby authorized to administer) it shall
 40 and may be lawful for His Majesty to allot to the said Judge or Registrar a sum equal to three fourth parts of his former salary and emoluments, by way of pension, for the term of his life, or until he shall hold some other office under the Crown, and then and in that case his pension
 shall

Judges and
Registrars not
removable,
except by
address of two
Houses of
Parliament.

Retiring
Pensions.

shall abate in such proportion as shall leave him a salary in the whole not exceeding by more than Five hundred pounds the amount of his said pension, or of the salary and emoluments to the said last-mentioned office belonging.

Clerks removable.

IX. And be it Enacted, That the said Clerks shall hold their offices 5
during the pleasure of the said Registrars respectively; and the said
criers and messengers, and ushers and extra messengers shall hold their
offices during the pleasure of the said Judges respectively; and that the
said clerks, criers, messengers and ushers and extra messengers, may be
removed from their offices by the said Registrars and Judges respectively, 10
summarily and without any reason being assigned.

No Fees to be taken, except as in Tables.

X. And be it Enacted, That neither the said Judges nor the said
Registrars, nor the said clerks nor the said criers, messengers and ushers,
nor the said extra messengers, shall receive or take any fee, gratuity,
reward or emolument whatever, upon any pretence or in any manner of 15
way, other than and except such salaries and emoluments as are herein-
before and hereinafter specified.

Oaths of Judges, Registrars, Clerks, Ushers.

XI. And be it Enacted, That each of the said Judges, before enter-
ing upon the execution of his office, shall take an oath in the following
form before the Lord High Chancellor, who is hereby authorized to ad- 20
minister the same; and again before the Custos Rotulorum or Custodes
Rotulorum, or in his or their absence, before the high sheriff or high
sheriffs and clerk or clerks of the peace, who are severally authorized to
administer the same in the open court of the said Judge in Ordinary :

" I, *A. B.* do solemnly swear, That I will faithfully, and to the 25
" best of my ability, execute the office of Judge in Ordinary
" for the county [*or, counties*] of and
" administer Justice equally, without fear, favour or affection.
" So help me GOD."

XII. And be it Enacted, That the said Registrars, clerks, mes- 30
sengers and ushers, and extra messengers, shall be sworn in open
court before the Judge Ordinary, faithfully to execute their several
offices, in the following form (to wit):

" I, *C. D.* do swear, That I will faithfully, and to the best of
" my ability, execute the office of Registrar (*or, Clerk*) of 35
" this Honourable Court. So help me GOD."

" I, *E. F.* do swear, That I will well and truly demean myself
" in the office of Messenger and Usher (*or, extra Messenger*)
" of this Honourable Court, and faithfully execute all process
" to me directed, and make due return thereof; and that 40
" I will not on any pretence take or receive any fees, gra-
" tuities

"tuities or emoluments whatever, save such as are allowed
 " by an Act passed in the year
 " intituled, " An Act
 "

5

" So help me GOD."

XIII. And be it Enacted, That the said Judges shall have cognizance of and shall try, in manner to be hereinafter directed, all actions of debt, whether the same be by specialty or on simple contract, and all actions of trespass or trover for taking goods and chattels, and all
 10 other actions whatever in the nature of actions for recovery of debt, provided the sum sought to be recovered does not exceed One hundred pounds; all actions of personal tort, and actions in the nature thereof, whether the same be upon assault, or assault and battery, or false imprisonment, or slander by words, or libel, or seduction, or criminal
 15 conversation, or false representation of character, solvency or property, or upon any other tort whatsoever to the person or to personal property, provided the damages sought to be recovered do not exceed Fifty pounds; all actions for the breach or nonperformance of any agree-
 20 ment, whether the same be by parol or by writing, whether under seal or not under seal, or whether by specialty or not, provided the damages sought to be recovered do not exceed One hundred pounds: Provided always, That no action shall be tried by the said Judges wherein the title to land in freehold, copyhold or leasehold, or tithe, or toll, or market, or fair, or other franchise shall be in question, unless both parties shall sign
 25 a declaration, stating that they believe such title to be in question, and are willing to have it tried by one or other of the said Judges: Provided further, That if any answer or reply shall be filed with the said Registrar, whereby any title to freehold, copyhold or leasehold, or title by bank-
 30 ruptcy, or to toll, tithe, market, fair or other franchise, shall come in question, the cause shall cease before the said Judge in Ordinary upon the party putting in such answer or reply verifying the matter of the same upon oath, and the costs of the other party shall be taxed and allowed as hereinafter directed, unless both parties shall sign a memorandum agreeing that the cause shall proceed before the said
 35 Judge, and unless such memorandum shall be filed at the time of filing such answer or reply.

Jurisdiction
of the Judges
in Ordinary.

XIV. And be it Enacted, That if both parties shall agree, by a memorandum signed by them or by their attornies, that the said Judge in Ordinary should have power to try any action in which the
 40 sum sought to be recovered amounts to more than One hundred pounds in cases of debt or in the nature of debt, or more than Fifty pounds in cases of tort, or an action in which the title to freehold, copyhold or leasehold, or to tithes, or toll, or market, or fair, or other franchise, or any title by bankruptcy, shall be in question, the said Judge shall have
 568. B jurisdiction

General juris-
diction by
consent.

jurisdiction and power to try such action : Provided always, That the said parties or their attornies shall state in their said agreement, that they know such cause of action to be above the said sums respectively, or that they know such titles to come in question in such action ; Provided further, That such agreement shall be filed with the Registrar at the time of filing the statement of the plaintiff, as hereinafter directed. 5

Defendant's
place of re-
sidence to
determine the
venue.

XV. Provided always, and be it further Enacted, That such actions as aforesaid shall only be brought before the said Judges in cases wherein the defendants reside, or the cause of action or some part thereof hath arisen, within the county or counties for which the said Judges are appointed respectively, unless by like consent of the parties, agreed to, then to be filed at the time of filing the statement hereinafter mentioned, and then and in that case the cause shall proceed before the said Judges. 10

Pleading—
Plaintiff's
statement.

XVI. And be it Enacted, That the plaintiff in every such action shall state in writing the ground of his action, and cause one copy of the same to be filed with the Registrar of the Court, who shall paste the same in a book to be by him kept for that purpose; and a copy or copies thereof, signed by such plaintiff or plaintiffs, shall be served upon the defendant, and specifying the place of abode of himself or of his attorney, by a messenger of the court, Three weeks before the sitting of the court at which he intends to try the cause; and such written statement shall set forth clearly and shortly the real sum demanded, if the action be for any debt, specifying whether it hath been by bill of exchange or promissory note, or for money lent by the plaintiff, or money received to his use, or money paid for him, or for work done, or for goods sold, or for any other matter or thing; and shall set forth, if the action be for the breach of any agreement, or of the condition of any written obligation, the purport of such agreement or condition, and the breach of such obligation or condition, with the damages claimed in respect thereof; and shall set forth, if the action be upon any trespass in taking, or upon trover or conversion of any goods, the fact of such taking or conversion, and the real value of the goods, with any damages which may be claimed over and above the value; and shall set forth, if the action be upon any personal tort, the injury complained of, and the nature thereof, stating whether it be assault or battery, or false imprisonment, or slander, or libel, or seduction, or criminal conversation, or false representation of character or credit, or malicious prosecution, or malicious arrest, or other personal injury whatsoever for which an action may be maintained by law. 15 20 25 30 35 40

Pleading—
Defendant's
answer.

XVII. And be it Enacted, That within Eight days after he shall be served with such written statement, the defendant shall deliver in writing his answer thereto, filing the same with the Registrar, who shall paste

129

paste it in the book aforesaid immediately after the plaintiff's statement, and the said defendant shall serve a copy of the same upon the plaintiff or his attorney, at the place of abode in the statement specified; and in such answer the defendant shall either deny the whole cause of action
 5 alleged against him, and say that the plaintiff hath no right to recover at all, or he shall deny the matters as alleged, and then and in that case he shall set forth the fact as he admits it to have happened, together with such further matter of defence in law or in fact as he may have to allege upon this state of the fact; or he shall deny part of the matters alleged against
 10 him, and admit the residue, and aver such further matters in law or fact as he may have to allege by way of defence, or he shall confess the whole matters alleged, and aver matter of defence in law or fact against the whole charge, or he shall confess the whole without more, or a part without more, and then and in this latter case he shall state that he pays
 15 into court the sum claimed in respect of the part admitted, and shall pay the same into the hands of the Registrar at the time of filing such answer.

Pleading—
 Reply, and
 Rejoinder.

XVIII. And be it Enacted, That if the defendant shall by his answer deny the whole matters of the statement in fact, or admit it in
 20 fact and deny his liability in law, the Registrar shall set down the cause to be tried in point of fact, or determined in point of law, at the next ensuing sittings of the Judge; and if the defendant denies the matter as alleged, and sets forth the fact in some other way, the plaintiff shall reply within Five days from being served with the answer, either that
 25 the allegation of his statement was true, or that he is entitled in law to recover upon the defendant's allegation, or that the new matter alleged by the defendant is untrue, or that certain other matters happened which entitled him to recover, notwithstanding the allegation of the defendant; and in every such case, except where the plaintiff replies some
 30 new matter of fact, the cause shall be set down by the Registrar for trial in point of fact, or determination in point of law, at the first sitting of the Judge, and shall give notice to the parties thereof; but where he replies new matter of fact, the defendant shall be served with a copy thereof, and have Eight days to rejoin in point of law or fact, and the cause shall be set
 35 down for trial or determination at the sittings following, and not at the next sittings; and where the defendant denies part of the allegations in the plaintiff's statement and admits the residue, averring something by way of defence in law or in fact, or where the defendant admits the whole matter of the statement and alleges some new matter of fact, the plaintiff
 40 shall in reply either deny the new matter of fact, or allege that the said new matter is not sufficient in law for defence, or shall admit such new matter and allege some other matter sufficient to show that the new matter alleged by the defendant is not sufficient for his defence; and if the plaintiff denies the new matter in fact, or denies its sufficiency in point of law, the cause shall be set down by the Registrar for trial at the next sittings
 568. of

of the Judge ; but if he replies some new matter, then and in that case the Registrar shall set down the cause for the sittings following, and the defendant shall have Four days to rejoin to the new matter so alleged ; and if the defendant shall in his answer confess the whole matter of the plaintiff's statement, or confess a part and deny the residue, the Registrar shall set down the cause to be tried in respect of the amount of damages, or the amount of damages and the facts denied, as the case may be. 5

Pleadings to be short, plain, and according to the truth of the facts.

XIX. And be it Enacted, That in all cases the Judge before whom such action shall be tried shall be empowered to direct the jury to take into their consideration any plain and wilful departure from the real truth of the case in the written statements of the parties, and to diminish the amount of the damages given to the party guilty of such misrepresentation if he be plaintiff, or increase the amount of the damages given against such party if he be defendant ; and if it shall at any time within Six months from the trial of the cause be made to appear to the satisfaction of the Judge that such misrepresentation was made through the fault of the attorney of either of the said parties, the Judge shall call upon him in a summary way to answer the matter of the complaint, and fine him in such reasonable sum as he shall think fit to be paid to the said plaintiff or defendant for whom he was employed respectively. 10 15 20

Tender of debt or satisfaction.

XX. And be it Enacted, That in all cases of actions brought before any Judge in Ordinary, other than and except actions for assault or assault and battery, slander, libel, false imprisonment, malicious prosecution, malicious arrest, malicious issuing out a commission of bankruptcy, seduction and criminal conversation, it shall and may be lawful for the defendant served with the statement of the plaintiff, to make a tender to him of a sum by way of satisfaction of his demand, and if the same shall by the said plaintiff be refused, to bring the same into court by paying it to the Registrar at the time of filing his answer ; and if the judgment shall be entered against him for no more than the sum so tendered and paid, the plaintiff shall pay the costs of the defendant by him incurred after the tender and refusal, to be taxed and received as hereinafter directed, and shall take the money paid out of Court. 25 30

Application for time to plead, or postponement of trial.

XXI. And be it Enacted, That where either party requires longer time than is hereinbefore allowed before putting in his answer, reply or rejoinder, or before proceeding to trial, he shall make application to the Judge Three days before the time when he ought to have so put in his answer, reply or rejoinder, or if he denies the trial to be delayed, three days before the first day of sittings, giving in either case Two days notice to the other party or his attorney ; and the said Judge shall, upon hearing the party or his attorney on the matter of the application, and also the other party or his attorney, and both upon oath, if he thinks fit (which oath he is hereby 35 40

131

hereby authorized to administer) have power to grant or refuse the delay sought, and to impose such terms as he thinks fit in respect of costs or admissions upon the party seeking the delay ; but if he refuses the said request, he shall in every case order that the party applying shall pay the costs of the other party ; and in all cases the said Judge shall have power to cause the whole or any part of the costs to be paid by the attorney, if he shall appear to have been the cause of the expense which has been incurred.

XXII. And be it Enacted, That if any attorney shall presume, under any pretext whatever, to charge his client with any sum ordered to be paid by himself under the authority of this Act or any of the provisions thereof, either by way of fine and penalty or by way of costs, the Judge shall, upon the matter being proved by affidavit, which affidavit the said attorney shall be allowed to answer, forthwith suspend him from his practice as an attorney in the said Court for such time as he shall think proper ; and if such attorney shall presume to practise during such suspension, or if he shall a second time be guilty of the like misconduct, the Court or Courts of which he is an attorney shall, upon the same being satisfactorily proved before them according to the usual course of their proceedings, strike the said attorney off their roll or rolls : Provided always, That any attorney so as aforesaid suspended by the order of such Judge in Ordinary, may, if he shall think himself aggrieved by such order, apply by motion to any Court of which he is an attorney, upon serving the Registrar of the said Judge in Ordinary with notice thereof, which Court, upon hearing the matter of the said application, shall make such order therein as it shall think fit.

Attornies
not to charge
their clients
with money
which they
are themselves
ordered to
pay.

XXIII. And be it Enacted, That the forms of pleading set forth in Schedule (C.) annexed to this Act, shall be followed as near as may be in the statements, answers, replies and rejoinders to be given in to the Courts of the said Judges, regard being had to the circumstances of the different actions which may from time to time be brought before them.

Forms to be
followed in
pleading.

XXIV. And be it Enacted, That the said Judges shall sit from day to day, for the trial of the Causes set down by the said Registrars at each sittings, until the whole number so set down shall be disposed of ; and each cause shall be set down by the Registrar for trial at the place in or near which the defendant resides, the said Registrar deciding, in case of any dispute between the parties, in which place the cause shall be set down for trial, having regard to the residence of the witnesses, when the defendant lives at equal distances from two or more places.

Setting down
of causes.

XXV. And be it Enacted, That if both parties in any cause shall agree between themselves not to try their cause by means of a jury, but
568. C only

Trial may be
without jury,
if parties
desire it.

only by one of the said Judges, and shall notify such desire, by a memorandum in writing signed by themselves or their attornies or agents, to the Registrar, before the first day of the sittings of the said Judge, the said Judge shall himself try the cause without any jury.

Jury may be called in afterwards.

XXVI. Provided always, and it is hereby further Enacted, That if in the course of the trial of such cause it shall appear to the said Judge fit and proper that the whole matter in dispute between the parties, or any part thereof, should be tried by a jury, he shall have power to empanel a jury, before whom the whole matter, or such part as he may think fit and proper for such mode of trial, shall be tried. 5 10

Trial may be without jury, if Judge suggests and parties consent.

XXVII. And be it Enacted, That if it shall appear to the said Judge before the first day of the sittings, that any case set down for trial before him is fit and proper to be tried by the said Judge alone without a jury, it shall and may be lawful for the said Judge to notify such his opinion to the said parties Four days at least before the first day of the sittings ; and unless one or other of the said parties shall before the first day of the sittings require the cause to be tried by a jury, the same shall be tried by the Judge alone. 15

Jury may be discharged by consent.

XXVIII. Provided always, and be it Enacted, That in case any cause shall have been begun to be tried by a jury, it shall and may be lawful for the said Judge, with the consent of both parties, to discharge the said jury and proceed to try the cause alone. 20

Course of the law to be pursued in general.

XXIX. And be it Enacted, That all actions of debt, or in the nature of debt, where the sum sought to be recovered is more than Five pounds, and all other actions whereof the said Judges have cognizance by virtue of this Act, shall be tried by the one of the said Judges in whose Court the same are brought, and a jury, according to the course of the law of this realm, unless in so far as it is otherwise provided in this Act. 25

Summoning of juries.

XXX. And be it Enacted, That each of the said Judges shall issue his summons Two weeks at least before the first day of each sitting, to the sheriff of the county or counties within which he hath jurisdiction to summon a jury, and thereupon the said sheriff shall cause to be summoned one week before the said first day of sitting, forty-eight persons qualified by law to serve as jurymen, to attend at the hour appointed for holding such sittings, such summonses to be served either personally on each such person or by leaving it at his dwellinghouse ; and in summoning such persons regard shall always be had to the convenience of the individuals so summoned, and the nearness of their places of abode to the place where the Court is holden ; and no person shall be summoned oftener than once in one year. 30 35

XXXI. And

XXXI. And be it Enacted, That every person so summoned who shall not attend, and shall not make lawful excuse, shall be fined by the said Judge, on proof duly made of service of the summons, in a sum not exceeding Five pounds: Provided always, That such person
 5 had not served on any jury in the said Courts within twelve calendar months previously.

Default of jurors.

XXXII. And be it Enacted, That the names of the jurymen summoned shall be put into a box, written severally on slips of paper, and shall be drawn out by the Registrar; and each party may object to any
 10 person whose name is drawn out, without assigning any cause, until no more than twelve remain; but if any objection is made to these twelve, it must be stated and decided on by the Judge before whom the cause is to be tried; and if any such objections are allowed, the names of the jurors rejected without cause assigned shall be returned to the box, and
 15 drawn again, until a sufficient number be found to make a jury of twelve: Provided always, That if there should not be twelve persons attending, or against whom no objections have been allowed, it shall and may be lawful for the Judge to order the requisite number of persons from among the bystanders to be summoned by the Registrar
 20 and set on the jury, subject to any objections which may be made for causes assigned, except for want of qualification or want of summons: Provided always, That the said Judge shall and may, if he sees fit, direct the sheriff to divide the said list of forty-eight persons into two lists, and to require the persons in the one list to attend on the first day, and those
 25 in the other to attend the second or the third day of the sittings, according as he shall think fittest for the convenience of the said persons, and then and in that case the sheriff shall divide the said list, and cause the said persons to be summoned to attend on different days accordingly.

Balloting and challenges of jurors.

30 XXXIII. And be it Enacted, That each juror shall receive for the trial of each cause on which he shall sit, the fee set forth in the Table of Fees in Schedule to this Act annexed.

Fees to jurors.

XXXIV. And be it Enacted, That either party in any cause may obtain from the Registrar a summons, signed by the Judge, for the attendance of any witness, which summons being served on such witness
 35 personally, if he shall refuse or neglect to attend, and if the service shall be proved, it shall and may be lawful for the Judge out of whose Court the summons issued, to direct the said witness to appear before him at the next sittings of the said Court, and to fine the said witness in a sum
 40 not exceeding the amount of the sum claimed for debt and damages, with the costs actually incurred, if the witness was summoned on the part of the plaintiff, or not exceeding the sum recovered, with the costs incurred, if the witness was summoned on the part of the defendant, and to cause
 568. the

Summoning of witnesses.

the same to be paid over to the party on whose behalf such witness was summoned and failed to attend: Provided always, That if any witness summoned shall attend and refuse to answer any lawful question put to him, the Judge shall have power to commit him to the prison of the county within which he resides, for his contempt.

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Form of summons, and swearing jurors and witnesses.

XXXV. And be it Enacted, That the summons shall be issued for jurymen and witnesses in the form set forth in the Schedule (D.) to this Act annexed; and the jurors shall be sworn to try the causes, and the witnesses to give evidence therein, according to the forms set forth in the Schedule (E.) to this Act annexed.

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Practitioners in the courts of Judges in Ordinary.

XXXVI. And be it Enacted, That any persons admitted barristers-at-law may practise as advocates before the said Judges; and any persons admitted attornies of any of the Courts of *Westminster*, may practise as attornies or agents before the said Judges; but no attorney or agent so practising shall on any pretence whatever presume to take more by way of fees for work by him done than according to the Table of Fees set forth in Schedule (F.) upon pain of being suspended from practising there for a period not exceeding one year for the first offence, and of being struck off the roll of the Court or Courts of which he is an attorney if he shall offend a second time, and the same shall be proved according to the course of proceedings in such last-mentioned Court or Courts.

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Actions by Attornies.

XXXVII. And be it Enacted, That no Attorney shall bring any action for any business done by him in or about any cause in the Courts of the said Judges, except in the Court where such cause hath been tried or prepared to be tried; and such action shall not be brought until a copy of the bill, signed with the attorney's name and place of business shall be delivered personally, or at the dwelling place of the party charged therein, at least One calendar month before the commencement of the action; which bill being by the party charged referred to the Registrar of the said Court, shall by him be taxed, and the amount allowed by him only shall be recovered upon proof made to the satisfaction of the Court that the work was done: Provided always, That any action brought by any attorney or solicitor for work done in any other Court, or in any matter not connected with any cause in the said Courts by this Act established, shall be brought according to the course of the Law of the Realm and the provisions of this Act.

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Judgment and execution.

XXXVIII. And be it Enacted, That when the judgment of either of the said Judges, whether sitting alone or with a jury, shall be given, a memorandum thereof, in the form set forth in Schedule (G.) hereunto annexed, shall be entered in the book kept by the Registrar, and shall be signed

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signed by the Judge, upon which judgment execution shall issue by writ of fieri facias, or capias ad satisfaciendum, or elegit, according to the course of the law of the realm ; such writs to be issued by the Registrar of the Court, and directed to the sheriff or sheriffs, and executed by him or them as the said writs from the courts of record in Westminster now are by law executed.

XXXIX. And be it Enacted, That it shall be lawful for the Judge in Ordinary, upon application made to him by summons, and upon hearing both parties or their attornies, and, if he thinks fit, examining them on oath, which oath he is hereby authorized to administer, to direct the sum recorded in the judgment against any defendant to be paid by instalments, and to stay execution until default shall be made in paying any instalment, and, if he thinks fit, to direct security to be found for the payment of such instalments.

Payment by instalments.

XL. Provided always, and be it further Enacted, That in case any defendant taken in execution under the process from any Court of such Judge in Ordinary shall apply to the said Judge, and offer to make over to the plaintiff any debt or claim at law due to him, and shall verify on oath his having a right to recover such debt or sum claimed, and shall find sufficient security for the costs of prosecuting the demand of such debt or sum, it shall and may be lawful for the said Judge to enter a minute of the assignment which shall be signed by such defendant, and further execution against him shall be stayed until proceedings be had on such debt or claim at the instance of the said plaintiff in the name of said defendant ; and if the plaintiff shall recover the said debt or sum claimed by the course of the law and the provisions of this Act, he shall pay himself his judgment and his costs in the said Court of the Judge in Ordinary, and pay over the balance, if any, to the said defendant, and shall continue his process of execution for such part only of the said judgment and costs as shall remain unsatisfied.

Assignment of Defendant's debts.

XLI. And be it Enacted, That if either party shall be dissatisfied with the decision of either of the said Judges, upon any objection made to evidence, or with his direction to the jury upon any matter of law, or with the decision of the said Judge in matter of law, or with the decision of the said Judge on any matter of fact, or with his judgment after verdict, or with the verdict of the jury, such party shall and may apply, by way of motion, to the Judge sitting at *Nisi Prius* at the next assizes for the county within which the action was brought or the cause tried, giving notice to the other party or his attorney Fourteen days at the least before the commission day of the said assizes, and setting forth in the said notice the grounds upon which such motion is to be made, a copy of which notice shall be entered with the Registrar in the book of the Court Fourteen days before the said commission day.

Review by motion before Judges of Assize.

Stay of execution and security.

XLII. Provided always, and it is hereby further Enacted, That no execution shall issue on any judgment until Fourteen days shall have elapsed after the trial of the cause; and if notice shall have been given before such execution issues of a motion to the Judge of assize, the execution shall not be issued; but it shall be lawful for the Judge in Ordinary to order the party against whom the judgment has been signed to pay the amount thereof into the hands of the Registrar, and to find security for the costs of the cause and also of the intended application by motion. 5

Setting down motions.

XLIII. And be it Enacted, That the said Registrar shall transmit to the marshal of the said Judge of Assize a copy of the notices of motions one week before the commission day aforesaid, and the names of the causes to which such notices refer shall be added to the cause paper of the said Judge, next after the causes set down for trial. 10

Hearing of motions.

XLIV. And be it Enacted, That every such motion shall be heard by the said Judge of assize, with the assistance of the Judge in Ordinary appointed by this Act, from whose Court the said motion comes; and if the Judge of assize shall think it fit that any of the said motions should be heard by the other Judge of assize also, it shall and may be lawful for both Judges to hear and dispose of such motion or motions sitting together, with the assistance of the Judge appointed by this Act: Provided always, That the said last mentioned Judge shall not have any vote in determining the matter submitted to the Judge or Judges of assize by any of the motions aforesaid. 15 20

Review by Courts of Westminster by order of Judges of Assize.

XLV. And be it Enacted, That if both the Judges of assize shall consider that any matter submitted to them by such motions as aforesaid requires the determination of one of the Courts of *Westminster* Hall, it shall and may be lawful for them to order a case to be stated for the opinion of such court as they shall choose to send such case to, provided the parties are both willing to have the matter so determined; but if either party prefers having the decision of the said Judges of assize, they shall decide it: Provided, nevertheless, That the party against whom they so decide may bring the same before one of the Courts of *Westminster* Hall, in the manner and subject to the regulations hereinafter directed. 25 30 35

Decision upon motions.

XLVI. And be it Enacted, That the said Judge or Judges of assize shall have power to order a new trial upon payment of costs, or not, as he or they shall think fit, regard being had to all the circumstances of each case, or to reverse the decision complained of in matter of law, and to order a different judgment to be entered in the cause; and that if he or they shall refuse the motion, it shall and may be lawful for him or them to give to the party against whom such motion was made, the costs of such motion, to be taxed by the Registrar of the Court in which the action was brought. 40

XLVII. And

13

XLVII. And be it Enacted, That if either party shall be dissatisfied with the decision of the Judge or Judges of assize, it shall be lawful for him to apply by motion to one of the Courts of *Westminster* Hall, first paying into the hands of the Registrar of the court in which the action was brought, the sum recovered by the judgment, and finding security for the costs of the cause, and also for the costs of the application to be made.

Review by
motion to
Courts of
Westminster.

XLVIII. And be it Enacted, That it shall be lawful for the Judge in Ordinary in whose Court any action shall be brought, if he see fit, to reserve any point for the decision of the Judge or Judges of assize, or if he see fit, and both parties consent, to order a case to be stated for the opinion of the said Judge or Judges, and to direct the jury to find a special verdict, and leave the matter for the opinion of the said Judge or Judges: Provided always, That the said Judge Ordinary may, if he think fit, and if both parties consent, direct the matter to be brought before one of the Courts of *Westminster* Hall, without being taken before the Judge or Judges of assize.

Points and
cases reserved
by Judges in
Ordinary.

XLIX. And be it Enacted, That from and after the if any action shall be brought in any of the Courts of *Westminster* against any person residing within the counties of *Kent*, *Durham* or *Northumberland*, for any matter whereof the said Judges in Ordinary have cognizance by virtue of this Act, and if the plaintiff in such action shall recover less than the sum for which such courts of such Judge in Ordinary are enabled by this Act to hold plea, then and in that case he shall recover no more costs than a sum to be certified by the Registrar of the Court within whose jurisdiction the defendant resided, as the sum which would have been received by way of costs if the action had been brought in such court, unless the defendant shall have consented, by a memorandum signed by himself or his attorney, to the action being brought in the said Court of *Westminster*.

Costs in ac-
tions brought
elsewhere
than before
Judges in
Ordinary.

LI. And be it Enacted, That no judgment, order or determination, nor any cause, matter or thing shall be removed from before the Judge in Ordinary by whom it shall have been given or made, or before whom it shall be brought, or in whose court it shall be, by appeal, motion, writ of error, certiorari or otherwise, to or into any other court whatever, save and except in the manner and according to the provisions hereinbefore and hereinafter set forth.

No appeal or
writ of error.

LII. And be it further Enacted by the authority aforesaid, That the said Judges in Ordinary shall have power to hear and determine in a summary way all actions of debt, or in the nature of debt upon simple contract, or of trespass or trover to recover the value of goods taken detained or converted, where no title to land or to tithes comes in question, nor any right of market, toll or other franchise, nor any proceedings in bankruptcy, and in which the sum sought to be recovered does not exceed Five pounds, and where the defendant resides within

Jurisdiction
of Judges in
Ordinary in
small debts.

the jurisdiction of the Judge Ordinary; and for trying such matters the proceedings shall be as is hereinafter next directed.

Pleading—
plaint.

LIII. And be it Enacted, That the plaintiff shall enter with the Clerk of the Registrar a note of his claim, to be called a **Plaint**, stating shortly what sum he seeks and on what ground, and shall serve the defendant personally with a copy of the same Two weeks at the least before the sittings appointed by the Judge for trying such causes; and the defendant being so served shall appear in person at the time and place mentioned in the note, or send some one to appear for him, with the copy of the note served upon him. 5 10

Pleading—
Plea.

LIV. And be it Enacted, That the said defendant shall, upon pain of judgment being signed against him, one week at least before the day when he is summoned to appear, file with the said Clerk a plea, setting forth, if the plaint be of a debt, that the defendant owes nothing, or owes only part of the sum demanded, and brings the rest into Court; and if the plaint be in trespass for taking goods or in trover, that the defendant did not take or did not convert the goods, or that the goods did not belong to the plaintiff, or that they were not of the value demanded, as the case may be; and further, that the defendant may add to his said plea any matter of set-off, stating the things in respect of which he claims to be allowed such set-off: Provided always, That if any part of the sum demanded be not denied to be due, the same shall be paid into the said clerk at the time of filing the plea, and may be taken out by the plaintiff; provided further, that if the defendant shall file no plea, and judgment shall be signed against him, and he shall afterwards appear at the day mentioned in the summons, it shall be lawful for the Judge to diminish the sum for which judgment shall have been signed, upon hearing the circumstances of the case. 15 20 25

Forms of
pleading to
be followed.

LV. And be it Enacted, That the **plaints and pleas** to be filed with the said clerk, shall be as nearly as may be according to the forms set forth in Schedule (C.) to this Act annexed, regard being had to the circumstances of each case. 30

Setting down
of **plaints**, and
giving time.

LVI. And be it Enacted, That as soon as any plea is filed with the said clerk, he shall enter the **plaint** in the list or paper of **plaints** to be kept by him; and the said **plaints** shall be tried at the next sittings of the Judge Ordinary, or immediately after the actions entered for trial, unless an order shall be made by the said Judge on the application of either party to postpone the trial of the **plaint**; which order he is hereby authorized to make upon such application, and on examining the parties or their attorneys upon oath if he thinks fit, which oath he is hereby authorized to administer. 35 40

Trial of
plaints.

LVII. And be it Enacted, That the Judge in Ordinary, in trying the causes so set down by the clerk, shall have power to examine both

both parties in the matters upon oath, if he thinks fit, which oath he is hereby authorized to administer: Provided always, That if either party hath any witness to produce, he shall be furnished with a summons for causing such witness to attend, which summons the clerk shall make out according to the form set forth in Schedule (D.) to this Act annexed; and any person so summoned and refusing or neglecting to attend, or refusing to give evidence when attending, shall be fined by the said Judge in a sum not exceeding twice the sum sought to be recovered, if he shall have been summoned on the part of the plaintiff and the decision is for defendant, or twice the sum recovered if he shall have been summoned for the defendant, or not exceeding the sum sought to be recovered if he shall have been summoned on the part of the defendant and the plaintiff recovers nothing, or on the part of the plaintiff and the plaintiff recovers a judgment; such fines to be paid over to the party injured by the default of the witness, and where there has been no injury, to be carried to the account of the fee fund in the hands of the Registrar.

LVIII. And be it Enacted, That the said Judge in Ordinary shall once in every month, at the end of the trials of actions, sit for disposing of the said complaints, and shall sit till all that have been entered are tried, and shall try them without a jury, unless both parties desire to have a jury, in which case he shall in a summary way empanel a jury of the bystanders, unless he shall think the case such as is more fit to be tried by the jury ordinarily attending the Court, and then and in that case the clerk shall set down the said cause or causes first in the list of complaints to be tried.

Sittings for trial of complaints.

LIX. And be it Enacted, That it shall and may be lawful for the said Judge to direct the sum ordered in his judgment to be paid by the defendant, to be paid by instalments, in such proportions and at such times as he shall think proper to appoint, and that no execution shall issue against the defendant until he make default in paying some such instalment.

Payment by instalments.

LX. And be it Enacted, That the Judgments given by the said Judge in such complaints shall be final, and not liable to be questioned or made the subject of any writ of error, appeal or motion in any other court, or before any other Judge: Provided always, That in any case tried by a jury, it shall be lawful for the said Judge in Ordinary to direct a new trial by another jury, at the same or any other sittings, if he shall think that justice has not been done; such second trial to be final and conclusive.

Judgments in complaint final, unless Judge orders otherwise.

LXI. And be it Enacted, That the Judgment given in any such complaint, being signed by the Judge in the book to be kept by the clerk, the said clerk shall issue execution by making out a warrant to the messenger or extra messenger of the said Court, who shall levy, by distress and sale

Execution on judgment in complaint.

of the defendant's chattels, the sum ordered by the judgment to be paid, or the residue of such sum remaining unpaid; and for default of such chattels, shall take the body of the said defendant, and commit him to the gaol of the county or city within which he dwells, there to be dealt with as a person taken in execution by the ordinary course of the law. 5

Costs in
plaints.

LXII. And be it Enacted, That the costs of the party recovering a judgment in any such plaint shall be taxed by the said clerk, and the sum allowed by him shall be approved by the Judge, who shall sign a certificate of his approval; and the sum so allowed and approved of shall be added to the amount of the sum for which judgment has been 10 signed for the plaintiff, or shall be annexed to the judgment for the defendant; and the warrant of execution issued by the said clerk shall be for the whole sum so specified in the judgment.

Costs if
action
brought for
small debts
otherwise
than by plaint.

LXIII. And be it Enacted, That from and after the 15 if any person shall bring any action of debt, or in the nature of debt, for a sum under Five pounds, and whereof either of the said Judges Ordinary have cognizance by virtue of this Act in any other Court whatever, or before any of the said Judges in Ordinary by way of action and not by way of plaint, he shall recover no more costs than damages, unless the defendant shall, by a memorandum, signed by 20 himself or his attorney, agree that such action shall be brought in such other court, or by way of action and not of plaint.

Causes of
action not to
be split.

LXIV. And be it Enacted, That it shall not be lawful to split or divide any cause of action for the purpose of bringing the same within the jurisdiction of the Courts of the said Judges in Ordinary either by way of 25 action or by way of plaint, by more than one action or by more than one plaint: Provided always, That it shall be lawful for any plaintiff or plaintiffs, having cause of action exceeding the sum of One hundred pounds, or exceeding the sum of Fifty pounds, or exceeding the sum of Five pounds, to abandon the excess over and above the said sums 30 severally; and in such cases the judgment of the Judge in Ordinary before whom the same shall be tried shall be in full discharge of all demand of such plaintiff or plaintiffs against the defendant or defendants for the same cause of action, in all courts whatsoever.

Proceedings
for recovery
of legacy.

LXVI. And be it further Enacted, by the authority aforesaid, That if 35 any person or persons residing within the counties of *Kent*, *Durham* or *Northumberland*, shall be executor or executors to any person deceased by the appointment of such deceased person, or of his or their own wrong, or shall have taken out letters of administration to any person with the will annexed, such person or persons may be cited before the Judge Ord- 40 nary of the county wherein he resides, at the suit of any person claiming to have any legacy in money or goods, amounting in the whole to any sum not

not more than One hundred pounds, to show cause why he or they should not pay over to the said person or persons claiming to be legatees or legatees the said sum or such part thereof rateably with the other legatees as may remain in the hands of the said executor or executors, administrator or administrators, after paying the debts and funeral expenses of the said deceased person ; provided that no such executor or executors, administrator or administrators, shall be so cited until after Six calendar months from taking probate of the will or suing out such letters of administration, or doing some act or thing whereby he or they shall become executor or executors of his or their own wrong, and until after Twelve calendar months from and after the decease of the said testator.

LXVII. And be it Enacted, That every person so cited shall, within one calendar month after citation, file with the Registrar of the said Judge, a statement, to the truth of which he shall be sworn before the said Judge, to be called an Article or Articles, wherein he shall either deny that he is executor or administrator to the deceased person, or he shall admit that he is executor or administrator, and deny that the party citing hath any right to the legacy claimed, or he shall admit that he is executor or administrator, and that the party citing hath a right to the legacy claimed, but deny that there are assets in his hands to satisfy any part of such legacy, or to satisfy the whole of such legacy, or he shall admit that he is executor or administrator, and that the party citing hath a right to the legacy claimed, and that there are assets in his the said executor's or administrator's hand to satisfy the whole or a part of such legacy, but allege that he cannot safely pay the whole or any part, as the case may be, in respect of other claims of debt which are made or likely to be made upon the estate of the deceased, or in respect of other legacies which are liable to be claimed thereout : Provided always, That if the said executor or administrator shall admit that there are assets in hand to any amount whatever, he shall at the time of filing the said article or articles pay into the hands of the Registrar of the said court the amount of the legacy claimed by the party citing, or as far as such assets will go towards the same ; which sum so paid in, or part thereof, shall only be taken out of the hands of the said Registrar upon an affidavit setting forth that the same or such part thereof is required for the purpose of paying some debt due from the estate of the person deceased, within one month from the time of swearing the said affidavit, and then and in that case he shall within the said space of one month file with the said Registrar a copy, verified by his oath, of the receipt or receipts given by the person or persons to whom the same shall have been paid ; provided further, that if he shall not so file the copy of such receipt or receipts within such time as aforesaid, he shall repay into the said Registrar's hands the sum so taken out with lawful interest on the same for the time during which he shall have had it out of the said Registrar's hands ; provided further, that

568.

Pleading in
legacy.

that if the person cited shall deny the legacy claimed to be due, he shall state distinctly in his said article or articles the ground of such denial, and whether he admits the due execution of the part of the will alleged to contain the bequest, or disputes the construction contended for, or disputes the identity of the person, or upon what other ground he denies the legacy claimed to be due. 5

Form of
pleading to
be followed.

LXVIII. And be it Enacted, That the form set forth in Schedule (C.) hereunto annexed, shall be followed as nearly as may be in drawing claims and articles, regard being had to the circumstances of each case.

Setting down
of claims of
legacy.

LXIX. And be it Enacted, That if the said article or articles shall 10
deny the person cited to be executor or administrator, or shall deny the
due execution of the bequest, or shall deny the identity of the person or
persons claiming, or shall deny that there remain further assets unad-
ministered to satisfy the whole or any part of the claim, the cause shall
be entered by the Registrar in the list of causes, and be tried at the next 15
sittings of the Judge in Ordinary, subject to the provisions of this Act
in respect of the trial of actions; and if the judgment shall be finally
entered for the person or persons claiming, it shall be for the whole or a
part of the sum or things claimed, according as the verdict shall have been
found: Provided always, That it shall and may be lawful for the Judge 20
in Ordinary to give the said person or persons cited leave to file a new
article or articles, if he shall think fit.

Trial of
claims of
legacy.

LXX. And be it Enacted, That if the said article or articles shall not
deny any of the matters herein last before mentioned, but allege any other
ground of defence against the claim of legacy, the said Registrar shall 25
set down the claim among the causes to be tried before the said Judge
at his next sittings, and the said Judge shall make such order therein
as to him shall seem fit, regard being had to the circumstances of the
case: Provided always, That it shall be lawful for the said Judge, if
he shall think fit, to try any matter of fact in dispute between the parties 30
by a jury, in the same manner as is directed by this Act with respect to
actions, and subject to the provisions directing the trial of the same;
provided also that the orders made by the said Judge, sitting with or
without a jury, shall be subject to review by motion, in like manner as
the judgments in cases of actions. 35

Assets admit-
ted to be paid
into court.

LXXI. And be it Enacted, That in every case of claim of legacy,
where the executor or administrator shall by his article or articles admit
that he hath in hand any assets unadministered, and shall not allege that
he is incapable safely to pay such assets in respect of debts or other
legacies remaining unpaid, such executor or administrator shall at the
time of filing his article or articles pay into the hands of the Registrar
a sum equal to the legacy claimed, or such part thereof as he admits
himself

himself to have in his hands free and unadministered, which sum so paid, the claimant shall be at liberty to take out of the hands of the said Registrar.

5 LXXII. And be it Enacted, That it shall and may be lawful for the Judge in Ordinary to postpone the trial of such matters of fact as he thinks fit until the next sittings; and also to postpone until the next sittings the hearing of the claim on the application of either party, after examining both parties on oath, if he shall think fit, upon the matter of the application, which oath he is hereby authorized to administer. Postponement of trial.

10 LXXIII. And be it Enacted, That it shall and may be lawful for the said Judge, if he shall think fit, and with the consent of both parties, in any case of claim of legacy, to direct a case to be stated for the opinion of one of the courts, either of law or of equity, in *Westminster Hall*. Cases on legacy for Courts of Westminster.

15 LXXIV. And be it Enacted, That in all proceedings by way of citation and claim for any legacy, the person claiming may either give in evidence an exemplification of the record of the Court in which probate shall have been granted, or the probate, or an examined copy of the probate, or the ledger book of the said Court, or an examined copy of the said ledger book, either of which shall be sufficient evidence of the will
20 appointing an executor, or the letters of administration, or a certificate that administration was granted, or the book of Acts of the Court in which administration was granted, or an examined copy of the said book of Acts, either of which shall be sufficient evidence of administration having been granted; and if any person shall have done any act whereby
25 he hath made himself executor of his own wrong, and hath not produced the will of the person deceased or taken out administration, or if any person whether he shall or shall not have proved such will or taken out such administration, shall not have produced any codicil or testamentary paper of the person deceased, then and in that case such executor shall,
30 when he files his article or articles in answer to any claim, produce the original will or codicil or testamentary paper, if any, in which any legacy is alleged in the said claim to have been bequeathed to the party claiming, and shall show the same to such party or his attorney within one week after being served with the citation and claim. Evidence of probate and letters of administration.

35 LXXV. And be it Enacted, That the Registrar shall issue execution upon any final order of the Judge in Ordinary, in any claim of legacy, in like manner as in the case of a judgment in any action brought before the said Judge in Ordinary according to the provisions of this Act. Execution in legacy.

LXXVI. And be it Enacted, That in every case of claim of legacy where the cause is tried in the first instance upon the claim and articles by a jury, and the judgment is for the executor or administrator, he
568. F Costs in legacy. shall

shall have his costs from the party claiming, to be taxed by the Registrar and allowed by the Judge in Ordinary, for which costs the Registrar shall issue execution as hereinbefore directed in the case of actions; and in every such case of claim where the judgment is for the claimant, and in every other case of claim, whether the judgment be for or against the claimant, the costs shall be in the discretion of the Judge, who may order either party to pay either the whole or a part of his costs, to be paid to the party in whose favour the final order is made, or may order that each party shall pay his own costs; and in every case of an order for payment of costs, the same shall be taxed by the Registrar and allowed by the Judge; and the sum so allowed shall be included in the execution issued if it be allowed to the claimant, and execution shall issue for it, if it be allowed for the executor or administrator, as is hereinbefore directed in the case of actions. 5 10

Concurrent jurisdiction in legacy.

LXXVII. Provided always, and be it Enacted, That nothing in this Act contained shall be deemed or taken to prohibit any person claiming any legacy from suing for the same in any court of equity in which he might have sued if this Act had not been made, unless he, or some one under whom he claims, shall have first claimed the same before any of the Judges in Ordinary, according to the provisions of this Act, or unless payment of such legacy shall have been obtained under the said provisions; provided further, that no person shall be allowed to claim under the provisions of this Act any legacy for which he, or any one under whom he claims, shall have already sued for the same in any other Court, or before any of the Judges appointed by virtue of this Act, whether such suit have been determined or be still pending. 15 20 25

Stay of proceedings in legacy, on proof of others elsewhere pending.

LXXVIII. Provided always, and be it Enacted, That if it shall be made to appear to the satisfaction of any Judge before whom any claim of legacy shall be brought by virtue of this Act, either upon matter alleged in any article or articles filed, or on the oath of witnesses at the hearing of such claim, that there is any proceeding pending in any other Court which is likely to affect in any way the final decision of the said claim, it shall be lawful for such Judge to make an order suspending the proceedings before him for a time to be specified, or dismissing it altogether, as he shall think fit; and in either case the having begun a proceeding before the said Judge Ordinary shall not in any way prejudice the right of the person or persons claiming, or those claiming through and under him or them, from proceeding in any other Court for the recovery of the said legacy. 30 35

Reference to arbitration of Judges in Ordinary.

LXXIX. And be it further Enacted by the authority aforesaid, That it shall and may be lawful for any persons, whether residing within the counties aforesaid or in any of the counties adjoining thereunto, by a memorandum under their hands, to agree that they shall try any matter in dispute between them, whether it be matter of law or matter of equity, 40

equity, before one or other of the said Judges in Ordinary, by way of reference to the arbitrament of the said Judge ; and such memorandum shall set forth the matter in dispute ; which memorandum being filed with the Registrar of such Judge, shall be final and binding upon both parties, and shall not be capable of being revoked or rescinded by either without the consent of the other in writing ; and the Registrar shall appoint a time when the said Judge shall hear the said matter, and shall issue a summons or summonses for any witness or witnesses whose attendance either party may desire to have, such summons to be according to the provisions of this Act in cases of action or plaint, and such witness or witnesses so summoned and not attending or not answering, to be dealt with in all respects as is hereinbefore directed in the case of actions or plaints.

LXXX. And be it Enacted, That the said Judge shall proceed to hear the matter so to him referred as an arbitrator, and shall have power to examine the parties upon their oaths, and shall adjourn the hearing of the matter from time to time as he shall think fit, and shall direct what other evidence he may require to be brought before him, whether it be by witnesses or by documents, and after hearing the whole matter he shall make his award in writing, which award shall be final and conclusive to all intents and purposes, and shall be filed with the Registrar, and may be pleaded and given in evidence, or an examined copy thereof may be given in evidence in all courts of law or equity : Provided always, That if either party shall desire that any matter of law should be stated on the said award, or if the Judge himself shall think fit, he shall state such matter in his award for the purpose of raising the question for the decision of any Court of law or equity, upon which both parties may agree, or in the event of their disagreeing, for the decision of such Court as the Judge shall appoint.

Proceedings
of the Judges
in Arbitra-
tion.

LXXXI. And be it Enacted, That it shall be lawful for the said Judge, if he think any part of the matter referred to him fit for being tried by a jury, to try the same in like manner as actions are directed to be tried before him by this Act ; and the verdict of such jury shall be binding upon his judgment, unless he directs a new trial, which he is hereby authorized to do ; and if either party shall desire him to state in his award any direction to the jury given by him in matter of law, or any decision upon admitting or rejecting any evidence before the jury, he shall state such direction or decision, and it may at the instance of either party be brought before such court of law as both may agree upon, or as the said Judge, in default of their agreeing, may appoint.

Judge in ar-
bitration may
try whole or a
part by a jury
if he thinks
fit, and shall
raise points of
law on the
award.

LXXXII. And be it Enacted, That the decision of the court before whom such matter of law, or direction or decision shall be brought shall be final : Provided always, That such court may direct a new trial of any matter that has been tried by a jury, on the ground of misdirection
568.

Such points
to be brought
before Courts
of Westminster.

by the Judge in Ordinary in matter of law, or misdirection respecting evidence, or misdecision upon.

Award may be set aside if it exceed the terms of reference.

LXXXIII. Provided always, and be it Enacted, That if the said Judge in Ordinary in his award shall arbitrate upon any matter or thing not referred to him, it shall and may be lawful for the party against whom he shall have made such award, to apply, by way of motion, within Ten days if the award be made and notified, to the party in Term time, and if in vacation, within the first Ten days of the next ensuing Term, to one or other of the Courts of *Westminster* Hall, according to the course of such Court, to set aside such award; which Court shall dispose of such motion according to such course, and according to law. 5 10

Execution upon award.

LXXXIV. And be it Enacted, That if no matter of law shall be stated by the Judge Ordinary in his award, and if no motion shall be made within the time hereinbefore specified, upon the ground of the award being beyond the terms of the reference, execution shall be issued by the Registrar for any sum ordered to be paid, in like manner as upon the judgment in any action to be brought by virtue of this Act: Provided always, That the said Judge may specify by his award, that the sums ordered to be paid shall be paid by installments, and then in that case such execution shall not be issued until default shall be made in the payment of some instalment ordered: Provided always, That if there be any act or thing, other than the payment of money, ordered to be done by the said award, an attachment shall be issued by the said Judge against the person refusing to do such act or thing, upon proof to the satisfaction of the said Judge of such refusal, and of the personal service upon such party of an examined copy of the said award, and the said party so refusing shall be committed to the gaol of the county within which the said Judge is hereby empowered to act: Provided always, That no such execution or attachment shall be issued until Two weeks after the filing of the award, if it be filed in term time, or two weeks after the beginning of the next ensuing Term if the award be filed in vacation time. 15 20 25 30

Costs on award.

LXXXV. And be it Enacted, That the said Judge shall award the costs to be paid by either party to the other, as he shall think fit, unless it shall be otherwise agreed upon by the parties in their memorandum aforesaid; and if any costs are awarded, they shall be added to the sum awarded, if any, and included in the execution to be issued; and if nothing is awarded to be paid, execution shall be issued for the costs, as in the case of actions tried before the said Judge. 35

Notice and inspection of documentary evidence.

LXXXVI. And be it further Enacted, That if either party in any action or plaint, or claim of legacy before any Judge in Ordinary, shall intend to give in evidence any paper writing whatever, he shall give notice thereof to the other party or his attorney, Four days at the least, before the sittings at which such action or claim is to be tried; and the said Judge 40

147

Judge shall and may order him to show the same to such party or his attorney, at such party's expense, at the place in or near which the defendant resides, the said Registrar deciding, in case of any dispute between the parties, in which place the cause shall be set down for trial, having regard to the residence of the witnesses, when the defendant lives at equal distance from two or more places.

LXXXVII. And be it Enacted, That if any party being served with any statement, answer, reply or rejoinder, plaint or plea, claim or article, shall not, within the times severally hereinbefore specified, put in his answer, reply or rejoinder, plea or article, as the case may be, such party so making default shall be deemed to have confessed the matter alleged against him, and the opposite party may sign interlocutory judgment according to the form set forth in Schedule (G.) hereunto annexed, and give notice of proceeding to assess the damages and tax the costs if he be the plaintiff, or to tax the costs if he be the defendant, at the next sitting of the court.

Default and discontinuance in pleading.

LXXXVIII. Provided always, and be it further Enacted, That it shall and may be lawful for the said Judge before whom such interlocutory judgment shall have been signed, upon application of the party making default, by summons, and upon hearing both parties or their attornies on oath, if he think fit, which oath he is hereby authorized to administer, to set aside such interlocutory judgment on such terms, in respect to delay, costs and admissions, as he shall think just and reasonable.

Judge may give time.

LXXXIX. And be it Enacted, That it shall and may be lawful for the Judge in Ordinary before whom any action plaint or claim of legacy shall be brought, upon the application of either party, to order a more particular account to be given in writing of any demand, or matter of defence, or of set-off, or any matter of answer, reply or rejoinder, or of plea, or of article, upon such terms, in respect of costs, delay or admission, as he shall think just and reasonable.

Judge may order particulars.

XC. And be it Enacted, That such Judge shall have power in any case, upon summons or hearing both parties, or their counsel or attornies, to allow, if he think fit, more than one answer, more than one reply, more than one rejoinder, more than one defence upon articles, giving such further leave to the other party as he thinks proper, in consequence of the said allowance.

Judge may allow double pleading.

XCI. And be it Enacted, That any person taking a false oath, or making a false affirmation, or verifying upon a false oath or false affirmation, in any case wherein an oath or affirmation or verification upon oath or affirmation is required or allowed to be taken or made by this Act, shall be deemed guilty of wilful and corrupt Perjury, and being

Punishment of false swearing.

being thereof duly convicted, shall be liable to such pains and penalties as by any laws now in force any persons convicted of wilful and corrupt perjury are subject and liable to.

Prosecution
for perjury by
direction of
Judge, and at
public ex-
pense.

XCII. And be it Enacted, That in any action or plaint, or citation and claim, or other proceeding to be tried before any of the said Judges in Ordinary, it shall and may be lawful for the said Judge, if he deem any witness or party examined on oath to have committed perjury, to direct such witness or party to be prosecuted for the same by the clerk of the peace of the county within which the witness or party was sworn; and such clerk of the peace shall prefer an indictment or indictments against such witness or party, and prosecute the same according to the course of the law, at the expense of the county. 5 10

Quakers to
affirm.

XCIII. And be it Enacted, That wheresoever by any provision in this Act any person is required to swear upon any matter, or to verify any matter or thing upon oath, or wheresoever any Judge in Ordinary is authorized to administer any oath, such person shall, if one of the people called Quakers, by such provision be authorized to affirm, or to verify on his affirmation; and such Judge shall be authorized to administer such affirmation to any person being one of the people called Quakers. 15 20

Causés may
be tried in
private by
consent of
parties, if the
Judge think
fit.

XCIV. And be it Enacted, That if any action or plaint, or citation and claim of legacy, or matter referred to arbitration, standing for trial before any Judge in Ordinary, shall appear to him to be fit to be tried in private, such Judge shall and may, with the consent of both parties or their counsel or attornies, proceed to try the same in private, at such place as he may think proper to appoint. 25

Judges in Or-
dinary to hold
Courts of Re-
concilement.

XCV. And be it further Enacted by the authority aforesaid, That it shall be lawful for any person who hath or shall have any claim, complaint or demand against any other person, either at law or in equity, in respect of any debt or right or tort, or in any other respect whatever, or against whom any other person hath or shall have or pretend to have any such claim demand or complaint at law or in equity, to cite the person against whom he shall have or who shall have or pretend to have against him such claim, demand or complaint, to appear before the Judge in Ordinary of the county wherein such person being the adverse party resides, to have the matter in dispute or which may come into dispute between them heard and advised upon by the said Judge, which hearing and advice shall be called proceeding for reconcilement; and such Judge shall appoint the times when and the places where he may please to sit and hold his Court of Reconcilement. 30 35 40

Time and
place of hold-
ing such
Courts.

XCVI. And be it Enacted, That such Court of Reconcilement shall be holden at a convenient time during or after the ordinary sittings

149

sittings of the said Judge in each place within his county or counties, notice being previously given thereof in some newspaper circulating in the said county or counties.

5 XCVII. And be it Enacted, That the party so cited shall at
his own election appear or not before the said Judge, but he shall
within one week of being so cited, serve the party citing with a notice
in which notice he shall state whether he intends to appear or not, and
such notice, with the proof of service of citation, may be given in evi-
10 dence against the party cited in any suit at law or in equity which may
be brought by or against the party citing, for the purpose of proving that
the party cited refused to appear before the Judge in Ordinary in a
court of reconciliation.

Party cited
not appear-
ing.

15 XCVIII. And be it Enacted, That the citation shall state shortly
the matter of the claim, complaint or demand which the person citing
hath against the other party, or expects to have made or brought by the
other party against him, with the time and place whereat the Judge in
Ordinary is to sit and hear and advise in the matter: Provided always,
That the party citing shall have first obtained leave from the said Judge
to come before him at such time and place, and shall serve the citation on
20 the other party two weeks at least before the said time of appearance.

Manner of
citation and
notice of time
and place.

XCIX. And be it Enacted, That when the party citing hath
received notice from the other party that he intends to appear, he shall
give notice thereof to the Registrar of the Judge Ten days before the
time appointed for hearing and advising; and the parties shall at such
25 appointed time appear personally, and without any attorney or counsel,
before the said Judge, and if either party shall fail to appear, he shall
pay reasonable costs to the other party appearing, to be taxed by the
Registrar, and to be levied by warrant in like manner as costs in a pro-
ceeding by way of plaint are hereinbefore directed to be levied; and if
30 neither party shall attend, and neither shall give Three days notice of
intending not to attend, both parties shall pay such reasonable fine as
the Judge shall impose, to be levied by warrant, in like manner with
costs in proceedings by way of plaint.

Costs of non-
appearance
and failing to
give notice.

35 C. And be it Enacted, That when the parties appear before
the Judge in Ordinary, he shall hear them state the matters of their
respective claims, complaints or demands, and defences or answers, in
the presence of each other, and shall give them his opinion and advice
thereupon; and it shall be in their option to follow and abide by this
advice or not as they shall think fit; and in case they shall agree to
abide by such advice, the substance thereof shall be reduced into
writing by a memorandum, which shall be signed by the parties and
568. entered

Proceeding in
Reconcile-
ment.

entered in a book of the Registrar, to be called the Reconcilement Book ; and such memorandum shall be final and binding on the said parties, and an examined copy thereof may be given in evidence and shall have the effect of a covenant under seal in all Courts whatever :
 Provided always, That the party to whom any sum of money is by such memorandum agreed to be paid, shall have execution, as in the case of an action before the Judge in Ordinary, for such sum against the party agreeing to pay, and not paying it at the time so agreed upon ; but if a party shall have agreed to do any other thing and shall fail to do it, the other party shall not have execution, but shall and may sue upon such agreement, and for breach of it, as upon a covenant under seal, and for breach of such covenant, or he may sue in a Court of Equity as for a specific performance of the thing or things agreed to be done :
 Provided always, That it shall be lawful for the said Judge in Ordinary before whom the parties shall have appeared, after he shall have heard and advised upon the matter by them stated, to adjourn if he think fit the further consideration thereof to the next sitting of the Court of Reconcilement, at which sitting the said parties shall declare whether or not they are minded to abide by his advice.

Agreement to
abide, and
execution
thereon.

CI. Provided always, and be it further Enacted, That when any parties shall have been heard before any Judge in Ordinary sitting in a Court of Reconcilement, and one or other of the said parties shall sue the other before the said Judge by way of action, plaint, or citation and claim, such party shall annex to his statement a notice, to be filed with the Registrar along with the said statement, that the cause of action plaint or claim is some matter already heard before the said Judge ; and if the party suing shall omit to annex such notice, the party sued may annex it to his answer, plea or articles ; and the Registrar, upon such notice being so annexed by either party, shall make out a certificate of the matter thereof, whereupon the proceedings before the said Judge shall cease, and the matter of the said suit shall and may be carried before a Judge in Ordinary of some adjoining county, notwithstanding that the party sued shall not reside therein, any thing in this Act to the contrary thereof in anywise notwithstanding : provided further, that the costs incurred by beginning the proceedings before the first-mentioned Judge in Ordinary shall be costs in the cause.

Penalties on
taking fees
not allowed.

CII. And be it Enacted, That if any person appointed to act under this Act shall receive or take in any manner of way, or under any pretence whatever, any fee, gratuity or emolument, other than and except such as are allowed in and by the Schedules to this Act annexed, he shall forfeit treble the amount of the sums so taken and received, with treble costs, which may be recovered in an action of debt, or by bill, plaint or information in any of His Majesty's Courts of Record in *Westminster*, and shall further lose such office as he

he may hold under the authority of this Act, and be disabled from ever again holding the same, or any other office under this Act, and from being employed in executing the processes by this Act appointed.

5 CIII. And be it Enacted, That all fees payable by this Act, except such as are payable to Registrars, extra messengers, and attornies, shall be paid to the Registrars, or their clerks, and shall by them be carried to the account of the fee fund, and shall be from time to time, as the Judges in Ordinary shall direct, paid into the Consolidated Fund at the Bank, after deducting such sums as shall be allowed to such
10 Judges or other officers by way of salary.

Fees to be paid into Consolidated Fund after deducting salaries.

CIV. And be it Enacted, That no action shall be brought against any person for any thing done under this Act, unless in the county wherein the same shall be alleged to have been done, nor after six months after it shall have been done, and after giving one month's notice of
15 such action; and the person sued may plead the general issue, and give this Act and the special matter in evidence, and if he shall recover a verdict, or the plaintiff shall discontinue or become nonsuit, such defendant shall recover judgment and treble costs of suit.

Limitation of Actions and General Issue.

CV. And be it Enacted, That whenever in this Act any word or
20 words have been used or employed, importing the singular number or the masculine gender, the same shall be understood to include several matters of the same kind as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it hath been otherwise specially provided,
25 or there be something in the subject or context repugnant to such construction.

Construction of Act as to numbers and genders.

CVI. And be it Enacted, That His Majesty shall and may, if with the advice of His Privy Council He sees fit, require the Judges of the Court of *Chancery*, and the Judges of the Courts of *King's Bench*, *Common Pleas* and *Exchequer*, to assemble together, and prepare Rules of Practice to govern the proceedings of the courts of the said Judges in Ordinary, which rules so prepared, His Majesty, with the advice and consent aforesaid, shall cause to be transmitted to the said Judges in Ordinary for their government: provided always, That such
30 rules be not contrary to the laws of the realm, or to the provisions of this Act.

Rules of Practice may be framed by the Judges and promulgated by Privy Council.

CVII. And be it Enacted, That this Act shall be deemed and taken to be a Public Act, and taken notice of as such by all Courts and Judges, without being specially pleaded.

Public Act.

S C H E D U L E S.

SCHEDULE (A.)

FEES OF COURT

Upon filing a Statement or Citation and Claim or Plea of Land.

| | | | | | | |
|--|---|---|---|---|---|-----------------------|
| Not exceeding £. 10 | - | - | - | - | - | 3 <i>d.</i> in pound. |
| Exceeding £. 10. and not exceeding £. 20. | - | - | - | - | - | 4 <i>d.</i> — |
| Exceeding £. 20. and not exceeding £. 50. | - | - | - | - | - | 5 <i>d.</i> — |
| Exceeding £. 50. and not exceeding £. 100. | - | - | - | - | - | 6 <i>d.</i> — |

Upon filing an Answer, Reply, Rejoinder or Article, half the Sum for
Statement or Claim or Plea of Land.

| Signing final Judgment : | £. | s. | d. |
|---|----|----|----|
| Not exceeding £. 10. | — | 2 | — |
| Exceeding £. 10. and not exceeding £. 20. | — | 4 | — |
| Exceeding £. 20. and not exceeding £. 40. | — | 6 | — |
| Exceeding £. 40. and not exceeding £. 50. | — | 8 | — |
| Exceeding £. 50. and not exceeding £. 100. | — | 10 | — |
| Interlocutory judgment | — | 3 | — |
| Expenses of Jury, to be paid before signing judgment (Each Juror to be paid 6 <i>d.</i> by the Registrar at the trial) | — | 6 | — |
| Filing reference to arbitration | — | 10 | — |
| Filing award | — | 10 | — |
| and 2 <i>d.</i> in the pound on the sum awarded to be paid on taking out execution. | | | |
| Process of execution | — | 3 | — |

Appearance in Court of Reconcilement :

| | | | |
|---|---|-----------------------|---|
| Party citing | — | 3 | — |
| Party cited | — | 2 | — |
| Entering Memorandum of Agreement in Reconcilement book | — | 2 | 6 |
| And on any sum to be paid above £. 50 | — | 2 <i>d.</i> in pound. | |
| On any sum not exceeding £. 50. | — | 1 <i>d.</i> — | |

SCHEDULE (B.)

| Fees of Messengers and Extra Messengers upon serving any statement or citation and claim, or any answer, reply or rejoinder, or any article or articles not exceeding | s. | d. |
|---|----|-----|
| £. 50. - - - - - | - | 2 6 |
| Above £. 50. - - - - - | - | 5 - |
| Serving any plaint not above £. 2. - - - - - | - | 2 - |
| Above £. 2. and not above £. 5. - - - - - | - | 3 - |
| Serving any warrant on judgments on plaints, same fees. | | |
| Taking any person in execution or by attachment - - | - | 5 - |

SCHEDULE (C.)

No. 1.

FORM of STATEMENT in Debt on Simple Contract
(Common Counts.)

A. B. sues C. D. before the Judge in Ordinary of the County of *Kent* for the sum of £. 100. which C. D. owes him for forty quarters of wheat, sold and delivered to C. D. [or, for money lent, or money paid for him, or money had and received to his use ; work and labour, &c.]

G. H. Attorney for A. B.
Dover, August 1, 1830.

FORM of ANSWER.—General Denial.

C. D. Denies that he owes A. B. any thing in respect of wheat sold and delivered.

I. K. Attorney for C. D.
Maidstone, August 5, 1830.

FORM of ANSWER.—Set-off and Statute of Limitations.

C. D. denies that he owes A. B. any thing in respect of wheat sold and delivered ; for he says that twenty quarters of the said wheat were sold and delivered to him by A. B. six years before the commencement of this suit, and A. B. owes C. D. a sum equal to the residue of the money claimed in respect of the matters contained in the particulars of Set-off hereunto annexed :

| | £. | s. | d. |
|--|----|----|----|
| 1 January 1827, a horse sold to A. B. value - - | 15 | - | - |
| 1 August 1827, rent of a house in Maidstone for eighteen months - - - - - | 30 | - | - |
| 1 January 1828, money lent to A. B. - - - | 5 | - | - |
| £. | 50 | - | - |

No. 2.

FORM of STATEMENT.—In Trespass for taking Goods.

A. B. sues C. D. for the sum of £. 10. by way of damages for taking a cow belonging to A. B. and detaining it two weeks.

G. H. &c.

FORM of ANSWER.—General Denial.

C. D. denies that he took or detained a cow of A. B.

I. K. &c.

FORM of ANSWER.—Justifying (Damage Feasant.)

C. D. says, that A. B. ought not to have any sum by way of damages for the alleged taking and detaining, because he says that the cow of A. B. was doing damage upon the close of him the said C. D. Wherefore he took and impounded the Cow until he should be satisfied for the said damage.

I. K. &c.

No. 3.

FORM of STATEMENT.—Giving False Representation.

A. B. sues C. D. before the Judge, &c. for the sum of £. 100. by way of damages, for that C. D. falsely represented to A. B. that one M. N. was solvent, and fit to be trusted to the amount of £. 200. by reason of which representation A. B. sold to M. N. goods of the value of £. 100. and hath lost the same, through the inability of M. N. to pay the price thereof.

G. H. &c.

No. 4.

FORM of STATEMENT.—Assault and Battery.

A. B. sues C. D. before the Judge, &c. for the sum of £. 60. by way of damages, for the injury he hath sustained by C. D. assaulting him in the Market-place of *Dover*, between the hours of one and two o'clock P. M. on a market-day (to wit, the 2d of January 1830), and beating him with a stick upon his head and face.

G. H. &c.

FORM of ANSWER.—General Denial.

C. D. denies that he ever struck or assaulted A. B.

I. K. &c.

FORM of ANSWER.—Justifying (son Assault).

C. D. denies that A. B. has a right to recover any sum by way of damages in respect of the alleged assault and battery, because he says that A. B. made an assault upon him before he C. D. struck or assaulted A. B.

I. K. &c.

No. 5.

FORM of STATEMENT.—Trover.

A. B. sues C. D. before the Judge, &c. for the sum of £. 50. being the value of five pockets of hops, A. B.'s property, which C. D. has converted to his own use, by refusing to deliver the same when demanded, they having been delivered to him by one M. N. from whom A. B. had bought them.

G. H. &c.

FORM of ANSWER.—Alleging a Lien.

C. D. denies that A. B. has a right to recover any sum by way of damages, in respect of the hops alleged to be detained, because he says that the said hops were delivered to him C. D. to carry the same, he being a common carrier, and because he says, that at the time the said hops were demanded, a balance, to wit, £. 15. was due from A. B. to him upon the general account between them for carriage of goods, which sum of £. 15. was not tendered to him the said C. D. when the demand was made of the hops.

I. K. &c.

FORM of REPLY.—Admitting Balance due, but alleging Tender.

A. B. says, that when the demand of the said hops was made, the sum due upon the general balance of the account between him and C. D., was tendered to C. D.

G. H. &c.

FORM of REPLY.—Admitting that no Tender was made, but denying a Balance.

A. B. says, that when the demand of the said hops was made, no sum of money was due from him to C. D. upon the general balance of the account between them, wherefore no sum was tendered.

G. H. &c.

FORM of ANSWER.—Stoppage in Transit.

C. D. denies that A. B. has a right to recover any sum by way of damages, in respect of the hops alleged to be detained, because he says, that the said hops were sold by one O. P. to M. N., who sold them to A. B. before they had been received into his, M. N.'s possession, and because M. N. became insolvent, and never paid O. P. the price thereof; wherefore the said O. P. ordered him the said C. D. to stop the said hops for the behoof of him O. P., which he C. D. hath done, and he now holds them at the disposal of O. P.

I. K. &c.

**FORM of REPLY.—Admitting Insolvency and Non-payment,
but denying Transitus.**

A. B. says, that the said hops had been in the possession of M. N. before he became insolvent, inasmuch as M. N. was owner and occupier of the barn wherein the hops were housed by O. P., before C. D. carried them.

G. H. &c.

FORM of REPLY.—Admitting Transitus, but alleging Payment.

A. B. says, that M. N. did pay O. P. for the said hops before they were delivered to C. D., inasmuch as O. P. had monies of M. N. in his hands, and debited M. N. with the price of the said hops in account.

I. K. &c.

No. 6.

**FORM of STATEMENT.—In Debt on Simple Contract, (Bill of
Exchange.)**

A. B. sues C. D. before the Judge in Ordinary, &c. for the sum of £.92., which C. D. owes him for principal and interest upon a bill of exchange for £.85., drawn by E. F. upon and accepted by C. D., dated 1st day of January 1827, at six months after date, payable to A. B.

(signed) G. H. &c.

FORM of ANSWER.—General Denial.

C. D. denies that he owes A. B. any thing in respect of the said bill.

I. K. &c.

FORM of ANSWER.—Partial Denial.

C. D. denies that he owes A. B. more than £. 80. because he says that he hath paid £. 12. for interest upon the said bill of exchange, and he pays £. 80. into Court.

I. K. &c.

FORM of ANSWER.—Allegation of Variance.

C. D. denies that he owes A. B. any thing in respect of the said bill of exchange, because he says that he accepted a bill of exchange drawn by E. F. payable to A. B. at six months after date, which bill was drawn payable six years before the bringing of this suit; to wit, on the day of January 1824; and the right of suing thereupon is barred by the Statute of Limitations.

I. K. &c.

FORM of REPLY.—Re-affirmance.

A. B. says that C. D. owes him the sum demanded in respect of the bill of exchange in the statement of A. B. mentioned.

G. H. &c.

152

FORM of REPLY.—Departure and Adoption.

A. B. says that C. D. owes him the sum demanded in respect of the bill of exchange in the answer of C. D. mentioned, because he says that within six years next before bringing this suit, to wit, on the 1st day of January 1827, C. D. promised in writing to pay the said sum in respect of the said bill [or, paid interest on the said bill.]

G. H. &c.

FORM of REJOINDER.—Denial of the Reply.

C. D. denies that he promised to pay the said sum [or, denies that he paid any sum of money for interest) in respect of the said bill of exchange, at any time within six years next before bringing this suit.

I. K. &c.

FORM of REJOINDER.—Confessing and Avoiding.

C. D. admits that he promised to pay the said sum in respect of [or, paid the said money for interest on] the said bill of exchange; but he says that he made the said promise [or, paid the said money for interest] by means of threats and duress.

I. K. &c.

No. 7.**FORM of STATEMENT.—In Slander.**

A. B. sues C. D. before the Judge in Ordinary, &c. for the sum of £. 100. by way of damages for the injury which he hath sustained by C. D. saying of him, that he the said A. B. stole a horse of him the said C. D.

G. H. &c.

FORM of ANSWER.—General Denial.

C. D. denies that he ever said that A. B. stole a horse of him the said C. D.

I. K. &c.

FORM of ANSWER.—Allegation of Variance.

C. D. denies that A. B. hath any claim of damages against him; because he says that he the said C. D. did only say of A. B. that he stole a horse of one M. N., and because he says it is true that A. B. did steal the horse of M. N.

I. K. &c.

FORM of REPLY.—Re-affirmance.

A. B. says that C. D. did say that he A. B. stole a horse of him the said C. D.

G. H. &c.

FORM of REPLY.—Departure and Adoption.

A. B. says that it is not true that he stole a horse of M. N.

G. H. &c.

No. 8.

FORM of STATEMENT.—False Imprisonment.

A. B. sues C. D. before the Judge, &c. for the sum of £.100. by way of damages for the injury he hath sustained by C. D. seizing him and imprisoning him for seven days in the gaol of the town of *Maidstone*.

G. H. &c.

FORM of ANSWER.—Justifying.

C. D. says, that A. B. ought not to have any sum by way of damages for the alleged imprisonment; because he says that C. D. was seen by A. B. to commit a breach of the peace; wherefore, and in order to securing the said A. B. until he should find sureties, C. D. committed him to the gaol of *Maidstone*.

I. K. &c.

FORM of REPLY.—New Assigning.

A. B. says that he ought to have the said sum by way of damages, because he says that C. D. kept him in the said gaol for three days after he the said A. B. had tendered good and sufficient sureties for the peace.

G. H. &c.

No. 9.

FORM of STATEMENT.—Breach of Condition under Seal.

A. B. sues C. D. before the Judge, &c. for the sum of £.100. by way of damages for breach of the conditions of a certain bond by C. D. to A. B., sealed with his the said C. D.'s seal, wherein he bound himself in consideration of the sum of £.100. to pay £.200. to A. B., if he should not present A. B. to the living of *Newchurch* in the county of *Kent*, the said living being then vacant by the death of M. N.

G. H. &c.

FORM of ANSWER.—Admitting the Fact, and denying the Obligation in Law.

C. D. denies that he is bound to pay any sum by way of damages to A. B. in respect of the conditions in the said bond, because he says that the said bond is wholly void in law.

I. K. &c.

FORM of PLEA OF LAND.

Memorandum annexed.

WE the Plaintiff and Defendant in an action about to be brought before the Judge in Ordinary for the county of *Kent*, do agree that such action shall be so brought; and we do acknowledge that the title to freehold estate doth or may come in question therein.

A. B.

C. D.

A. B. demands of C. D. the possession of all that messuage or tenement with the appurtenances, called *Newbarn*, together with the close thereunto adjoining, called *Blackacre*, situated in the parish of *Newchurch*, county of *Kent*, such close being bounded by [set forth the abuttals], and being of the extent of twenty acres or thereabouts, of which messuage and close the said C. D. is wrongfully in possession.

Dover, August 1, 1830.

E. H. attorney of A. B.

FORM of ANSWER denying Possession.

C. D. denies that he hath, or at the date of A. B.'s plea of land had, possession of the said messuage or close, or either of them, the property of A. B.

Maidstone, 5 April 1830.

I. K. Attorney of C. D.

FORM of ANSWER, denying Title but admitting Possession.

C. D. denies that A. B. hath, or at the date of his plea of land had, any right or title to the said messuage and close, or either of them, whereof he C. D. hath possession.

I. K. &c.

No. 10.

FORM of ANSWER alleging Bankruptcy.

C. D. says that A. B. has no right to recover any part of the sum demanded, because he says that he the said C. D. was duly chosen assignee of one M. N. who before the taking of the said goods in the statement of A. B. mentioned, became a bankrupt by executing a conveyance of his stock in trade, with intent to defraud his creditors [or, beginning to keep house, or any other act of bankruptcy, as the case may be.]

I. K. &c.

Memorandum annexed.

WE the undersigned, being Plaintiff and Defendant in this cause, do agree that it shall proceed before the Judge in Ordinary for the county of *Kent*; and we do acknowledge that title by bankruptcy doth or may come in question therein.

A. B.
C. D.

No. 11.

FORM of STATEMENT.—In Trespass quare clausum fregit.

A. B. sues C. D. before the Judge, &c. for the sum of £.5. by way of damages in respect of C. D. having broke and entered a certain close of him A. B. called *Blackacre*, bounded on the North [set forth the abutments], and driven a carriage along the same close of *Blackacre*.

G. H. &c.

Memorandum of Agreement and acknowledgment as in No. 9.

FORM of ANSWER.—Alleging Soil and Freehold.

C. D. denies that A. B. hath a right to recover any sum by way of damages for the act by him complained of, because he says that the close which he C. D. entered, and in which he drove a carriage was the soil and freehold of him C. D.

I. K. &c.

FORM of ANSWER.—Alleging Right of Way, (a que estate.)

C. D. denies that A. B. hath a right to recover any sum by way of damages for the act complained of, because he says that he and all those whose estates he hath in certain premises, called *Whiteacre*, situated hard by the said close, called *Blackacre*, hath and always have had a right of way over the said close for themselves and their cattle and carriages; wherefore he in use of the said right of way entered and drove the carriage thereon.

I. K. &c.

FORM of ANSWER.—Public Way.

C. D. denies (as before) because he says that there is, and time out of mind hath been a public highway for all the King's subjects along the said close, called *Blackacre*, to pass and repass with their cattle and carriages, wherefore he C. D. did pass and drive his carriage thereon.

I. K. &c.

FORM of REPLY.—Admitting Right of Way, but new Assigning.

A. B. says that C. D. drove his carriage over a part of the close, called *Blackacre*, whereon he and those whose estate he hath, hath not nor had any right of way to drive their carriages [or, whereon there is not, nor hath been, time out of mind, a public highway for all the King's subjects to pass and repass with their carriages.]

G. H., &c.

No. 12.

FORM of PLAINT.

A. B. demands of C. D. the sum of £. 4. which he owes him for grocery sold to him. This Plaint to be tried at the sittings holden 2d September next, before the Judge in Ordinary for the county of *Kent*.

A. B.

[or. G. H. Attorney for Plaintiff.]

10 August 1830.

FORM of PLEA.

C. D. denies that he owes A. B. any thing,

C. D.

[or, I. K. Attorney for Defendant],

18 August 1830.

No. 13.

FORM of CITATION and CLAIM of LEGACY.

A. B. cites C. D. before the Judge, &c. to shew cause why he should not pay to him A. B. the sum of £. 90. bequeathed to him by M. N. deceased, whose executor [or, administrator] C. D. is.

G. H. &c.

FORM of ARTICLE, ne unques Executor.

C. D. shows for cause why he should pay nothing to A. B. that he C. D. is not, nor ever was, executor [or, administrator] of M. N. deceased.

I. K. &c.

FORM of ARTICLE, denying Legacy.

C. D. shows for cause why he should not pay A. B. any thing, that M. N. whose executor [or, administrator] he is, did not bequeath the legacy claimed to A. B. [or, only bequeathed £. 40. which he C. D. now brings into Court.]

I. K. &c.

FORM of ARTICLE, Plene Administravit.

C. D. shows for cause why, &c. that he hath fully administered all the assets of M. N. deceased which have come to his hands.

I. K. &c.

FORM of ARTICLE, admitting Assets partially.

C. D. shows for cause why, &c. that he hath not assets unadministered sufficient to pay the legacy claimed by A. B. but only sufficient to pay him one-third part thereof, as his share rateably with the other legatees; which sum, to wit, £.90. he brings into Court.

I. K. &c.

FORM of ARTICLE, admitting Assets, but alleging expected Demands.

C. D. shows for cause why, &c. that he hath not assets unadministered out of which he can safely pay any part of the legacy claimed by A. B. or safely pay beyond a certain part, to wit, one-third, which he now brings into Court), because he says, that he C. D. expects demands of debt against the assets in his hands to be made to such an amount as not to leave any thing unadministered for satisfying the said claim [or, to leave more unadministered than the one-third now brought into Court.]

I. K. &c.

SCHEDULE (D.)

FORM of SUMMONS to Jurors.

YOU are hereby required to attend and serve as a Juror, at the sittings to be holden before T. U. Esquire, at *Maidstone*, on Monday the second day of July next.

To X. Y. }
Yeoman, Maidstone.}

V. W. Sheriff,
24 June 1830.

FORM of SUMMONS to Witnesses.

YOU are hereby required to attend as a Witness at the sittings to be holden before me, at *Maidstone*, on Monday, the 2d day of July next, in a cause [or plaint, or claim of legacy] between A. B. and C. D.

T. U. Judge in Ordinary,
24 June 1830.

FORM of SUMMONS to Witnesses, with Clause of Duces tecum.

YOU are required [as before], and you are further required to bring with you to the said sittings, a certain deed of assignment, bearing date on or about the 1st day of January 1820, purporting to be made by C. D. to A. B.

T. U. Judge in Ordinary.

SCHEDULE (E).

FORM of OATH to Jurors.

YOU shall well and truly try the matter brought before you in this action, [or plaint, or citation and claim, or arbitration] and a true verdict give according to the evidence.

So help you GOD.

FORM of OATH to Witnesses or Parties.

THE evidence you shall give before the Court and Jury sworn, [or, the Court, as the case may be] touching the matter in question, shall be the truth, the whole truth, and nothing but the truth.

So help you GOD.

AFFIRMATION of Quakers.

I, P. Q. being one of the people called Quakers, do solemnly promise and affirm, that the evidence which I shall give before the Court and Jury sworn, [or, the Court, as the case may be] touching the matter in question, shall be the truth, the whole truth, and nothing but the truth.

FORM of OATH to Witnesses in Parties before the
Judge in Ordinary.

YOU shall true answer make to all such questions as shall be put to you, before the Judge in Ordinary for the county of *Kent*.

So help you GOD.

AFFIRMATION.

I, P. Q. being one of the people called Quakers, do solemnly promise and affirm, that I will true answer make to all such questions as shall be put to me before the Judge in Ordinary for the county of *Kent*.

SCHEDULE (F.)

ATTORNIES' FEES.

SCHEDULE (G.)

FORM of INTERLOCUTORY JUDGMENT for Plaintiff.

LET A. B. have Judgment of C. D. for such part of the sum demanded, as a Jury at the next sittings shall find he ought to recover, and his costs to be taxed, [if the Judge shall hereafter so order, where the costs are in the discretion of the Judge.]

**R. S. Registrar,
1 Sept. 1830.**

FORM of INTERLOCUTORY JUDGMENT for Defendant.

LET C. D. have Judgment of A. B., and his costs to be taxed, [if the Judge shall hereafter so order, where the costs are in the discretion of the Judge.]

**R. S. Registrar,
1 Sept. 1830.**

185

FORM of FINAL JUDGMENT for Plaintiff.

THE Jury [or the Court] found that A. B. ought to recover £.50. for his damages, Therefore, let A. B. have Judgment of C. D. for the said sum; but let C. D. pay the same by instalments, to wit, £20. forthwith, £10. within one month, £10. within two months, and the residue within three months, together with A. B.'s costs.

[The order respecting instalments to be added or not.]

T. U. Judge,
1 Sept. 1830.

FORM of JUDGMENT on an Award.

THE Judge in Ordinary for the County of *Kent* having awarded that C. D. should pay to A. B. £.500, and repair the wall by him prostrated, and that each party should pay his own costs, Therefore, let C. D. do accordingly, and each party pay his own costs.

T. U. Judge Ordinary,
1 Sept. 1830.

11 Geo. IV.—Sess. 1830.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

For Establishing Courts of Local Jurisdiction.

*Ordered, by The House of Commons, to be Printed,
21 June 1830.*

A B S T R A C T

OF

B I L L

[AS AMENDED BY THE COMMITTEE]

For establishing Courts of Local Jurisdiction.

ALTHOUGH the BILL only provides for two Courts, one for *Kent*, and one for *Durham* and *Northumberland*, its provisions may be extended to the other Counties of *England* and *Wales*, as soon as it can be ascertained how large each juridical district should be.

The object of the Bill being to afford the means of trying Causes at as little expense and with as little delay and inconvenience as possible to the Suitors, District Courts are established under the revision of Superior Courts in most cases.

The Judge of each District is called the Judge in Ordinary; and he has a Registrar, with a Clerk, Crier, Usher, and Messenger. The Judge must be a Serjeant or a Barrister of ten years standing. He and the Registrar are appointed by the Crown; the Clerk by the Registrar; and the other Officers by the Judge.

The Judge, Registrar, and Clerk, are paid partly by salary and partly by a proportion of the fees collected on the business done; but those fees do not depend upon the number of steps or the length of the procedure in any case; they depend only on the number and value of the Causes. The Crier is paid by salary; and the Usher and Messengers by salary, and fixed fees on the service of process. Extra Messengers are to be appointed, when necessary, from the Sheriffs' Bailiffs, and these are to be paid by fees on the service of process. The constitution of the Court is laid down in the first Twelve Sections, and rules of practice are to be laid down by the Judges of the Courts of *Westminster Hall*, Section 106.

The Court thus established has six branches of jurisdiction, three compulsory, and three voluntary or prorogated. The Compulsory jurisdiction is in certain Actions—in small Debts—and in Legacies; the Voluntary, in all Actions,—in Arbitration,—and in Reconcilement.

The Court is to sit once a month at least, except in August, and in different parts of the district.

The Judge Ordinary is to be a Justice of Peace of that and the adjoining Counties, and in the Commission of Oyer and Terminer and Gaol delivery.

1.—The Court has authority to try all Actions where the Defendant resides within the district, and the cause of action, if on a debt, does not exceed One hundred pounds, or if on a tort Fifty pounds, and where title to real estate, tithe, or by bankruptcy, or to toll, market, or other franchise does not come in question.

2.—It has authority to try, in a summary way, small Debts not exceeding Five pounds, under the like restriction as to real estate, &c.

3.—It has authority to try Claims of Legacy not exceeding One hundred pounds.

4.—It has authority to try all Actions at Law of all kinds and to any amount, by consent of parties.

5.—It has authority to try all matters, whether at Law or in Equity, by way of Arbitration, the parties consenting.

6.—It has authority to hear and advise upon all disputes, with consent of the parties, for the purpose of reconciliation.

1.—ACTIONS.

THE proceeding here is by statement, answer, reply and rejoinder. Sections 13, 14, 15, 49, 51, treat of the jurisdiction under this head. The manner of serving the Defendant with the statement, which stands both for writ and declaration; of putting in the answer, which serves for plea or demurrer, as the case may be; of putting in the reply, which serves for both replication and demurrer; and, of putting in the rejoinder, which may be either rejoinder or demurrer, is laid down in Sections 16, 17, 18 & 19, and the consequences of making default are laid down in Section 86. The manner of pleading, in its different stages, is laid down in Sections 16, 17, 18 & 19, and Schedule (C.) gives various forms, according to which the pleading is to be conducted, as nearly as may be. Precautions are taken to prevent prolixity and misstatement of facts, by making practitioners liable for the consequences of the same, at the discretion of the Court; but the parties have a direct interest in putting these discretionary powers in motion; Sections 21, 22, 23, 36, 37.

The process for summoning Jurors and Witnesses is laid down in Sections 30, 31, 34, 35, and Schedule (D.)—the mode of trial, in Sections 29, 32, 33.

The Judge is authorized to give time to parties for pleading, and to put off trials; and he is also authorized to hear parties and their attorneys, and on oath if he pleases, on the matter of such applications. Sections 21, 87, 88, 89.

The

The Judge is authorized to decide points of Law raised before him on the pleadings.

The general mode of proceeding in trying matter of fact is by Jury; but the Judge, with the consent of both parties, may try any matter of fact without a Jury, with power, if in the course of the trial he finds the matter or any part of it more fit for a Jury, to impanel one. He may also, with consent of both parties, exclude strangers, and try the action in private, with or without a Jury, as the case may be. These powers are defined in Sections 25, 26, 27, 28, 93.

Any matter tried before the Judge, whether of law or fact, may be reviewed by a motion before the Judge of Assize for the county, the Judge in Ordinary sitting with him, but not having a vote in the decision of the Appeal. If the Judge of Assize pleases, he may hear it with the other Judge of Assize.

The Judgment of the Judge in Ordinary, in matter of Law, may be reviewed by the Judge or Judges of Assize; and the Sentence of the Judge in Ordinary and Verdict of the Jury, in matter of fact, may be set aside, and a new trial ordered, by the same Judge or Judges. Powers are given, under certain restrictions as to costs and securities, of carrying the matter before the Courts of *Westminster*, from the decision of the Judge of Assize; and a discretionary power is also given to the Judge in Ordinary, to require securities before appeal by motion to the Judge of Assize. Powers are also given, under certain restrictions, to both the Judge in Ordinary and Judges of Assize, to reserve points and order cases for the opinion of the superior Courts.

The subject of Appeal is treated of in Sections 41, 42, 43, 44, 45, 46, 47, 48, 51. Upon all final judgments, execution is to be taken out, and the process thereof served, according to rules laid down in Sections 38, 39, 40. The Judge has power to order payment by installments, Section 39; and debts may be assigned in satisfaction, Section 40.

2.—PLAINTS.

THE proceeding in the Small Debt Court of the Judge in Ordinary is by Complaint and Plea. The rules relating to the service, pleading, and notices, are laid down in Sections 52, 53, 54, 55, and forms are given in Schedule (C.)

The Judge is to sit for the trial of Complaints at each place immediately after the sittings for trial of Actions.

He may examine on oath the parties before him; and these parties may appear by others, if prevented from attending.

The Execution is summary, by warrant; and there is no appeal or revision, unless the Judge deems it fitting.

The Trial is by the Judge without a Jury, unless he thinks it fit to have a Jury.

The trial of Complaints is treated of in Sections 56, 57, 58, 60.—the judgment and execution in Sections 59, 61, 62.

3.—LEGACY.

THE proceeding in Legacy is by Citation and Claim, serving the office of both subpœna and bill ; and by Article, serving the office of answer, plea, and demurrer.

The citation must be not less than six months after the executor or administrator's title accrued, and twelve months after the death of the testator.

The rules for proceeding and pleading in legacy are laid down in Sections 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78 ; and forms are given in Schedule (C.)

Wherever the executor or administrator has free assets, he must either pay the legacy as far as his assets go, or he must show cause why he does not, stating the claims against the estate, which he apprehends may be made ; and in that case he must pay the money claimed into Court, to await the coming in of such claims.

An appeal by way of motion lies from decisions in legacy, to the Courts of Law and Equity, according to rules laid down in Sections 70 & 73.

4.—GENERAL JURISDICTION BY CONSENT.

THIS extends to all Actions at Law. The Consent of parties must be given in writing, and filed with the Statement, Answer, &c. or at whatever other stage of the Cause, the necessity arises of extending the jurisdiction beyond its ordinary limits. This is laid down in Section 14, and the forms are given in Schedule (C.)

The forms of Pleading under such parts of this head as are not exempted under the head of Actions, are given in Schedule (C.)

5.—ARBITRATION.

THE Judge Ordinary is a Judge of Arbitration also, and may proceed, upon any matter at law or in equity referred to him, after the manner of an arbitrator.

The mode of proceeding is laid down in Sections 79, 80, 81, 82, 83.

The Judge is to raise any question of law on the face of his Award, that either party desires to carry before one of the superior Courts of Law or Equity.

He has also power to try any part of the matter referred to him by a Jury, subject to certain rules.

The reference to him is irrevocable ; witnesses are compellable to attend him ; false swearing before him is punishable as perjury ; and his award can only be impeached if it exceed the terms of the reference.

Judgment and Execution on the Award is to be had, as laid down in Sections 84, 85.

6.—RECONCILEMENT.

6.—RECONCILEMENT.

ANY party may cite another against whom he has any claim or complaint, or from whom he apprehends any claim or complaint, before the Judge Ordinary, at a time and place specified in the citation and allowed by the Judge.

The Judge is to hear the parties themselves, without any attorney or council, and to advise them on the matter of their differences ; subject to certain rules laid down in Sections 95, 96, 97, 98, 99, 100, 101.

If they agree to abide by his advice, a Memorandum of Agreement is to be signed by them, and this shall be binding, according to rules laid down in Section 100.

Execution may issue on whatever Agreement is signed for payment of money.

All Fees, after paying the proportions of the Officers of the Court, are to be paid into the Consolidated Fund, Section 103.

There are Clauses for punishing Perjury, with a power given to the Judge Ordinary of directing Prosecutions at the expense of the County, Sections 91, 92.

There are Clauses for regulating Proceedings against Persons acting in execution of the Act, and for prosecuting persons for extortion, Sections 102, 104.

SCHEDULES (A.) & (B.) prescribe the Fees of the Court and Messengers.

SCHEDULE (C.) the Forms of Pleading.

SCHEDULE (D.) the Forms of Summons to Jurors and Witnesses.

SCHEDULE (E.) the Forms of Oaths to Jurors, Parties, and Witnesses.

SCHEDULE (F.) Attorney's Fees.

A B S T R A C T

OF

B I L L

[AS AMENDED BY THE COMMITTEE]

For establishing Courts of Local Jurisdiction.

*Ordered, by The House of Commons, to be Printed,
21 June 1830.*

4 May 1830.

173



A

B I L L

FOR

Regulating the Receipt and future Appropriation of Fees
and Emoluments receivable by Officers of the Superior
Courts of Common Law.

Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.

WH ~~HEREAS~~ it may be necessary for the better administra- Preamble.
tion of Justice that amendments and alterations should be
made in the Process, Practice, Pleadings and other proceedings of
His Majesty's superior Courts of Common Law in England and
5 Wales, or that the offices belonging to the said Courts should be
subjected to new regulations, whereby the Emoluments of some
offices may be diminished or wholly taken away, and the Fees and
Receipts of other offices increased: AND whereas it is fit that
Compensation should be made for any such loss, and that the Public
10 should have the benefit of any such increase of Fees and Emo-
luments;

BE it therefore Enacted, by The KING's most Excellent MAJESTY,
by and with the advice and consent of the Lords Spiritual and Tem-
poral, and Commons, in this present Parliament assembled, and by
15 the Authority of the same, THAT every person who on the *Twelfth*
day of February one thousand eight hundred and thirty shall have
held any office in or belonging to any of the said courts, in fee or for
any term either of life or years, or who shall then have been ap-
pointed to any office or employment in or belonging to any of the
said courts by any person authorized to make such appointment by
virtue of an office which such last-mentioned person shall hold in
fee or for any term either of life or years, and every Cursitor of the

Persons hold-
ing Offices in
the Superior
Courts shall
render to the
Commission-
ers under this
Act an ac-
count of their
Receipts for
the last Ten
years.

Court of Chancery, shall forthwith after the *passing of this Act* make or cause to be made out, and render to the Commissioners herein-after mentioned, an account in writing, in such form and with such particulars of receipt and otherwise, as the said Commissioners shall require, of all lawful fees and emoluments which shall have been received in respect of every such office or employment, and of all disbursements and allowances made thereout, and charges affecting the same, in each of the ten years next preceding the said *Twelfth day of February one thousand eight hundred and thirty*; and in case he shall not be able to make or cause to be made out such account for every one of the said ten years, he shall specify in the account which he shall render, the reason why he is not able to render an account for any such year or years as may be omitted.

Commis-
sioners may
examine the
legality, &c
of the Fees
upon Oath.

And be it further Enacted, That the said Commissioners shall be authorized to inquire into and examine as well the legality as the amount of the fees and emoluments contained in such account, and of all disbursements and allowances made in respect thereof, and of all charges affecting the same, and to require proof to be made upon oath, either personally or in writing, of any matter into which such Commissioners may think it necessary to inquire; which oath may be administered either by such Commissioners or any *Three* of them, or by a Judge or Commissioner of any of the said courts.

Shall ascertain
the value of
all such Offi-
ces according
to an average
of the last
Ten years.

And be it further Enacted, That the said Commissioners shall ascertain the net annual value, according to a fair average of the said *Ten* years as aforesaid, of the lawful fees and emoluments of all such offices and employments as aforesaid; and in every case wherein it shall happen that the fees and emoluments relating to any particular year or years shall have been omitted by any officer in the account rendered to the said Commissioners, and they shall be satisfied with the reason given for such omission, the said Commissioners shall estimate the net annual value of the office or employment of such officer according to the best of their judgment, and in order to assist them in forming a judgment therein, they shall have regard to the amount of fees and emoluments which, in the year or years omitted, have been received by other officers, the fees and emoluments of whose offices or employments may in the opinion of the said Commissioners afford a fair ground of comparison.

Shall certify
the value to
the Treasury.

And be it further Enacted, That when the said Commissioners shall have ascertained to their satisfaction the net annual value of the fees and emoluments of such offices and employments or any of them, computed as aforesaid, they shall from time to time certify the same under their hands to the Lord High Treasurer or Commissioners

sioners of His Majesty's Treasury, who shall lay copies of every certificate of the said Commissioners before both Houses of Parliament.

5 And be it further Enacted, That until Parliament shall otherwise direct, all fees and emoluments that now are or may be legally received in respect of any such offices or employments, shall continue to be received and shall be accounted for in the manner hereinafter mentioned.

The present Fees to be paid until altered.

10 And be it further Enacted, That every person who on the *Twelfth day of February one thousand eight hundred and thirty* shall have held any such office or employment as aforesaid, and the heirs executors or administrators of every such person, having an interest in such office in fee or for any term of life or years, shall, during his or their continuance or interest in such office, render to the Lord High
15 Treasurer or Commissioners of His Majesty's Treasury, upon oath, to be sworn before a Judge of one of the said courts, a true account in writing of the gross and net amount of the fees and emoluments which have become due on account of such office or employment, at such time or times, in such form, and with such particulars of
20 receipt or otherwise, as the Commissioners hereby appointed shall hereafter fix.

39 G. 3. c. 110.
49 G. 3. c. 127.
6 G. 4. c. 82.
Officers to render an account of their Fees in future to the Treasury.

25 And be it further Enacted, That in case the net amount of fees and emoluments which shall have become due to any person who on the said *Twelfth day of February one thousand eight hundred and thirty* shall have held any such office or employment as aforesaid, shall exceed the net annual value thereof which shall have been certified as aforesaid, the surplus shall within *Seven* days after the rendering of such account as aforesaid be paid into the Receipt of the Exchequer, to the credit of and as part of the Consolidated Fund of the United Kingdom; and if default shall be made
30 in the payment of any such surplus as aforesaid into the Receipt of the Exchequer, to the credit of the Consolidated Fund, the amount thereof shall be and be deemed a specialty debt due to His Majesty; and the Lord High Treasurer, or any three of the Commissioners of
35 His Majesty's Treasury, shall or may from time to time, by an order under his or their hands, appoint and authorize such person as he or they shall think proper, to receive all the fees and emoluments of the said office in respect of which such surplus is due; and every such person shall accordingly have and is hereby invested with full power to receive and compel payment of such fees and emoluments, until such surplus, with interest thereon, and all costs and expenses occasioned by the nonpayment thereof, are satisfied, and the monies so to be received shall be applied in payment of the same accordingly;

If the Fees received shall exceed the certified value of the Office, the Surplus shall be paid into the Exchequer to the Consolidated Fund.

Proceedings against Defaulters.

6 G. 4. c. 83.
s. 14.

ingly ; and if any surplus shall remain in hand after making all such payments, the same shall be paid to the person entitled to such office : Provided always, That every such officer shall and may retain out of the surplus so to be paid by him into the Receipt of the Exchequer, so much money as the Lord High Treasurer, or any three of the Commissioners of His Majesty's Treasury, and the Lord Chief Justice or Chief Baron of the court to which the office or employment of such officer may belong, shall by writing under their hands authorize him to retain, as a reasonable compensation for his additional trouble in respect of the increase in the business of his said office or employment. 5 10

If the Receipts fall short of the certified value, the difference shall be paid to the Officers out of the Consolidated Fund.

And be it further Enacted, That in case the net amount of fees and emoluments which shall become due to any person who on the said *Twelfth day of February one thousand eight hundred and thirty* shall have held any such office or employment as aforesaid, shall fall short of the net annual value thereof which shall have been certified as aforesaid, every such person, his heirs executors or administrators, having an interest in such office in fee or for any term either of life or years, shall during his or their continuance or interest in such office be entitled to receive from the Lord High Treasurer or Commissioners of His Majesty's Treasury, within *one calendar month* next after the rendering of such account as aforesaid, the full amount of the difference between the net sum which shall have so become due, and such certified value, and the amount so to be paid shall be charged upon and paid out of the Consolidated Fund of the United Kingdom without any fee or deduction whatsoever; and every person who on the said *Twelfth day of February one thousand eight hundred and thirty* shall have been appointed to any such office or employment as aforesaid by any other person having an interest in his office in fee or for any term either of life or years, shall, during the joint continuance in office of himself and of the person so appointing him, be entitled in like manner to receive such difference. 15 20 25 30

Provision for the case of an Officer dying or resigning before the end of the year.

Provided always, and be it Enacted, That in case any person entitled to receive or required to pay over any sum of money under the provisions of this Act, shall die, or resign his office or employment before the termination of any year, the executors or administrators of the person so dying, or the person himself so resigning, shall render such account as aforesaid for such part of the year during which the person so dying or resigning shall have held such office or employment, and shall be entitled to receive or required to pay over an amount proportioned to that part of the year during which such person shall have held the same. 35

And

And be it further Enacted, That no person who after the said *Twelfth day of February one thousand eight hundred and thirty* shall be appointed to any such office or employment as aforesaid shall, nor shall the

No Persons hereafter appointed to any Office, shall be entitled to claim Compensation.

5 [here insert the official description of any persons who may have accepted an office upon condition of relinquishing any claim to compensation in case of its abolition] be deemed entitled to prefer any claim to compensation in respect of any alteration of any kind whatsoever which shall be made by authority of
10 Parliament in the constitution, process, practice, pleadings or other proceedings of any of the said courts, or in the constitution, duties or emoluments of any of the said offices or employments by such authority as aforesaid.

15 Provided always, and be it Enacted, That nothing herein contained shall be construed to prevent any person from being dismissed from any office or employment which he may have held on the said *Twelfth day of February one thousand eight hundred and thirty*, in like manner as he might have been dismissed therefrom if this Act had not been made, or to give him any greater or other interest in
20 such office or employment than he might have lawfully claimed or exercised if this Act had not been made.

This Act not to prevent the dismissal of any Officer.

25 Provided also, and be it Enacted, That if any such office or employment as aforesaid shall be abolished by authority of Parliament, every person, his heirs executors or administrators, who under the provisions of this Act would have been entitled to receive the difference between
30 the net amount of the fees and emoluments which would have become due, and the certified value of such office or employment, in case the said office or employment were not abolished, shall be entitled to receive, during all the time for which such person was entitled to hold the office or employment so abolished, such annual sum as the Lord High Treasurer or any three of the Commissioners of His Majesty's Treasury, and the Lord Chief Justice or Lord Chief Baron of the court to which such office or employment may belong, shall fix and appoint as a full and fair compensation for the loss of such
35 office or employment, not exceeding in any case the amount of such certified value, and not being less in any case than three fourth parts thereof; and every person who under the said provisions would be entitled to receive such difference during the joint continuance in office of himself and the person by whom he was appointed to any such office or employment, shall be entitled to receive such sum so to be fixed and appointed as aforesaid by the Lord High Treasurer or any three of the Commissioners of His Majesty's Treasury, and the Lord Chief Justice or Lord Chief Baron of the court to which such office or employment shall belong, during his natural life, if the

Provision for payment in the event of any Offices being abolished.

person appointing him had such an interest in his office as would have so long continued, otherwise during such period only as his interest would have continued.

Power for the Treasury to buy out Offices in fee or abolished.

And be it further Enacted, That it shall be lawful for the Lord High Treasurer or Commissioners of His Majesty's Treasury to agree with any person or persons who on the said *Twelfth day of February one thousand eight hundred and thirty* shall have held any such office or employment in fee, or whose office or employment shall be abolished by authority of Parliament, for the absolute purchase of such office or employment for any sum of money, which sum of money shall be paid out of the Consolidated Fund of the United Kingdom; and that from and after such purchase and payment, all fees and emoluments which shall become due in respect of any such office or employment as shall be so purchased, and shall not have been abolished, shall be received by such person or persons as the Lord High Treasurer or any three of the Commissioners of His Majesty's Treasury shall from time to time appoint by writing under their hands, and shall be paid into the Receipt of the Exchequer, to the credit of and as part of the Consolidated Fund of the United Kingdom.

False swearing under this Act.

And be it further Enacted, That every person who shall swear falsely to any matter respecting which an oath, either personally or in writing, is hereby required or authorized to be made, and shall be convicted of so doing wilfully and corruptly, shall be deemed guilty of *wilful and corrupt Perjury*, and shall suffer the pains and penalties of that offence.

Names of the Commissioners.

And be it further Enacted, That

or any Three of them, be Commissioners for carrying this Act into effect.

No new Account required from the Judges.

And be it further Enacted, That nothing in this Act contained shall extend to require the render of any account, of His Majesty's Judges of the Courts of Record at Westminster, other than such as is now required by law.

11 Geo. IV.—Sess. 1830.

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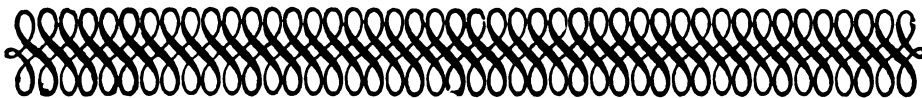
B I L L

For regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law.

*Ordered, by The House of Commons, to be Printed,
4 May 1830.*

17 June 1830.

119



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B I L L

[AS AMENDED BY THE COMMITTEE]

For regulating the Receipt and future Appropriation of Fees
and Emoluments receivable by Officers of the Superior
Courts of Common Law.

N. B.—*The Clauses marked (A. to E.) were added by the Committee.*

W ~~H E R E A S~~ it may be necessary for the better admi-
nistration of Justice that amendments and alterations
should be made in the Process, Practice, Pleadings and other Pro-
ceedings of His Majesty's Superior Courts of Common Law in
5 *England and Wales*, or that the Offices belonging to the said Courts
should be subjected to new regulations, whereby the amount of
Fees and Emoluments which some of the Officers are or may be
entitled to demand and receive in respect of the Duties of their
Offices, may be diminished or wholly taken away, and the amount
10 of Fees and Emoluments which others are or may be entitled so to
demand and receive, increased : **A N D** whereas it is fit that Compen-
sation should be made for any such loss, and that the Public should
have the benefit of any such increase of Fees and Emoluments;
B E it ~~therefore~~ **E n a c t e d**, by The KING's most Excellent
15 **M A J E S T Y**, by and with the advice and consent of the Lords Spi-
ritual and Temporal, and Commons, in this present Parliament
assembled, and by the Authority of the same, **T H A T**, except as
hereinafter mentioned, every person who on the Twenty-fourth day
of May one thousand eight hundred and thirty shall have held any
20 office in or belonging to any of the said Courts, in fee, or for any
term either of life or years, or who shall then have been appointed
to any other office or employment in or belongig to any of the said
Courts by virtue of any right of appointment heretofore exercised by
any of the Judges of His Majesty's courts of record at Westminster,

Persons hold-
ing Offices in
the superior
Courts, shall
render to the
Commission-
ers under this
Act an Ac-
count of their
Receipts for
the last Ten
years.

551.

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and

and every Cursitor of the Court of Chancery, and every person holding any office connected with passing of fines and recoveries, who shall have been appointed on or before the said Twenty-fourth day of May, shall forthwith, after the passing of this Act, make or cause to be made out, and render to the Commissioners to be appointed by virtue of this Act as hereinafter mentioned, an account in writing, in such form and with such particulars of receipt and otherwise as the said Commissioners shall require, of all such lawful Fees and Emoluments as aforesaid which shall have become due in respect of every such office or employment as aforesaid, and of all disbursements and allowances made thereout, and charges affecting the same, in each of the ten years next preceding the said Twenty-fourth day May one thousand eight hundred and thirty.

CLAUSE (A.)
Officers entitled to, and who claimed Compensation under 6 Geo. IV. c. 96. to render Account for Ten years before the passing of that Act.

Provided always, and be it further Enacted, That every officer who claimed and was entitled to compensation in respect of any Fees or Emoluments under the provisions of an Act passed in the sixth year of the reign of His present Majesty, intituled, "An Act for preventing frivolous Writs of Error," shall forthwith after the passing of this Act make out and render to the Commissioners to be appointed by virtue of this Act, such account in writing as hereinbefore directed, so far as regards such Fees and Emoluments, in respect of the ten years mentioned in the said recited Act, in lieu of the ten years abovementioned; and that so much of the said recited Act as relates to the inquiring and ascertaining and certifying and paying the amount of the diminution or excess in the same Act mentioned, shall from and after the last day of Trinity Term one thousand eight hundred and thirty, cease and be of no effect, except so far as regards the compensation due to such persons under the said recited Act up to the said last day of Trinity Term one thousand eight hundred and thirty.

If an Account as aforesaid cannot be rendered, the reason to be stated.

And be it further Enacted, That in case any person holding any such office or employment as aforesaid, shall not be able to make or cause to be made out any such account as aforesaid for every one of the years in respect of which the same is to be so rendered, he shall specify, in the account which he shall render, the reason why he is not able to render an account for any such year or years as may be omitted.

Commissioners may examine the legality, &c. of the Fees upon Oath.

And be it further Enacted, That the said Commissioners shall be authorized to inquire into and examine as well the legality as the amount of the Fees and Emoluments contained in any such account as aforesaid, and of all disbursements and allowances made in respect thereof, and of all charges affecting the same; and to require proof to be made, upon oath, either personally or in writing, of any matter into which such Commissioners may think it necessary to inquire; which oath may be administered either by such Commissioners, or any Three of them, or by a Judge or Commissioner of any of the said Courts.

And

181

And be it further Enacted, That the said Commissioners shall ascertain the gross and net annual value, according to a fair average of the said ten years as aforesaid, of the lawful Fees and Emoluments of all such offices and employments as aforesaid; and in every case wherein it shall happen that the Fees and Emoluments relating to any particular year or years shall have been omitted by any officer in the account rendered to the said Commissioners, and they shall be satisfied with the reason given for such omission, the said Commissioners shall estimate the gross and net annual value of the office or employment of such officer according to the best of their judgment; and in order to assist them in forming a judgment therein, they shall have regard to the amount of Fees and Emoluments which in the year or years omitted have been received by other officers, the Fees and Emoluments of whose offices or employments may, in the opinion of the said Commissioners, afford a fair ground of comparison.

Commissioners shall ascertain the Value of all such Offices according to an average of Ten years.

And be it further Enacted, That when the said Commissioners shall have ascertained to their satisfaction the gross and net annual value of the Fees and Emoluments of such offices and employments, or any of them, computed as aforesaid, together with the particulars of the disbursements allowances and charges constituting the difference between such gross and net annual value, they shall from time to time certify the same under their hands to the Lord High Treasurer or Commissioners of His Majesty's Treasury for the time being, who shall lay copies of every certificate of the said Commissioners before both Houses of Parliament.

Commissioners shall certify the Value to the Treasury.

And be it further Enacted, That, until otherwise directed by lawful authority, all Fees and Emoluments that now are or may be legally received in respect of any such offices or employments shall continue to be received, and shall be accounted for in the manner hereinafter mentioned.

The Fees to be paid until altered.

And be it further Enacted, That every person who on the Twenty-fourth day of May one thousand eight hundred and thirty shall have held any such office or employment as aforesaid, and the heirs executors or administrators of every such person having an interest in such office, in fee, or for any term of life or years, shall, during his or their continuance or interest in such office or employment, render to the Lord High Treasurer, or Commissioners of His Majesty's Treasury for the time being, upon oath, to be sworn before a Judge of one of the said Courts, or a Commissioner duly authorized to take affidavits therein, a true account in writing of the gross and net amount of all such Fees and Emoluments as aforesaid, which shall have become due on account of such office or employment, specifying the particulars of the disbursements allowances and charges constituting the difference between such gross and net amounts, at and for such time or times, in such form, and with such

Officers to render an account of their Fees in future to the Treasury.

further particulars of receipt or otherwise, as the Commissioners to be appointed (by virtue of this Act) shall fix.

CLAUSE (B.)

If account unsatisfactory, to be referred for inquiry.

And be it further Enacted, That in case the said Lord High Treasurer, or Commissioners of His Majesty's Treasury for the time being, or any Three or more of them, shall be dissatisfied with any account to be rendered to them as aforesaid, it shall and may be lawful for him or them to refer the same to any one or more of the Chief Justices, Chief Baron, or Judges of any of His Majesty's superior courts at Westminster, or to any one or more of the Masters of the High Court of Chancery, who shall thereupon, by such ways and means, and by the examination of such persons as he or they shall think fit, and on oath, if he or they shall think an oath necessary to be administered, in manner aforesaid, inquire into and investigate the said accounts, or any item therein, and all or any of the disbursements allowances or charges therein contained, and make such allowances and disallowances therein as he or they shall think just and reasonable; and shall finally settle and certify in writing the net amount of the Fees and Emoluments to which such account relates.

If the Fees received shall exceed the certified Value of the Office, the surplus shall be paid into the Exchequer to the Consolidated Fund.

And be it further Enacted, That in case the net amount of such Fees and Emoluments which shall have become due to any person who, on the said Twenty-fourth day of May one thousand eight hundred and thirty, shall have held any such office or employment as aforesaid, shall exceed the net annual value thereof which shall have been certified as aforesaid, the surplus shall, within Seven days after the rendering of such Account as aforesaid, be paid into the Receipt of Exchequer, to the credit of and as part of the Consolidated Fund of the United Kingdom; and if default shall be made in the payment of any such surplus as aforesaid into the Receipt of the Exchequer, to the credit of the Consolidated Fund, the amount thereof shall be and be deemed a specialty debt due to His Majesty; and the Lord High Treasurer, or any Three of the Commissioners of His Majesty's Treasury for the time being, shall or may from time to time, by an order under his or their hands, appoint and authorize such person as he or they shall think proper to receive all the Fees and Emoluments of the said office or employment, in respect of which such surplus is due; and every such person shall accordingly have and is hereby invested with full power to receive and compel payment of such Fees and Emoluments, until such surplus, with interest thereon, and all costs and expenses occasioned by the non-payment thereof, are satisfied; and the monies so to be received shall be applied in payment of the same accordingly; and if any surplus shall remain in hand after making all such payments, the same shall be paid to the person entitled to such office or employment: Provided always, That every such officer shall and may retain, out of the surplus so to be paid by him into the Receipt of the Exchequer, so much money as the Lord High Treasurer, or any Three of the Commissioners of His Majesty's Treasury for the time being,

Proceedings against Defaulters.

being, and the Lord Chief Justice or Chief Baron of the Court to which the office or employment of such officer may belong, shall, by writing under their hands, authorize him to retain, as a reasonable compensation for his additional trouble in respect of the increase in the business of his said office or employment.

And be it further Enacted, That in case the net amount of such Fees and Emoluments which shall become due to any person, who, on the said Twenty-fourth day of May One thousand eight hundred and thirty, shall have held any such office or employment as aforesaid, shall fall short of the net annual value thereof which shall have been certified as aforesaid, every such person, his heirs executors or administrators, having an interest in such office or employment, in fee, or for any term either of life or years, shall, during his or their continuance or interest in such office or employment, be entitled to receive from the Lord High Treasurer or Commissioners of His Majesty's Treasury, within One calendar month next after the rendering of such account as aforesaid, the full amount of the difference between the net sum which shall have so become due and such certified value; and the amount so to be paid shall be charged upon and paid out of the Consolidated Fund of the United Kingdom, without any fee or deduction whatsoever; and every person who, on the said Twenty-fourth day of May One thousand eight hundred and thirty, shall have been appointed to any office or employment by any judge as aforesaid, shall, during the continuance in office of the person so appointed, under and by virtue of that appointment, be entitled in like manner to receive such difference.

If the Receipts fall short of the certified Value, the difference shall be paid to the Officers out of the Consolidated Fund.

Provided always, and be it Enacted, That in case any person entitled to receive or required to pay over any sum of money under the provisions of this Act, shall die or resign, or be dismissed from his office or employment, before the termination of any year, the executors or administrators of the person so dying, or the person himself so resigning or dismissed, shall render such account as aforesaid for such part of the year during which the person so dying or resigning or dismissed shall have held such office or employment, and shall be entitled to receive or required to pay over an amount proportioned to that part of the year during which such person shall have held the same.

Provision for the case of an Officer dying, &c. before the end of the year.

Provided also, and be it Enacted, That if any person authorized to make an appointment to any office or employment as aforesaid, shall, after the Twenty-fourth day of May aforesaid, have appointed, or shall hereafter appoint, any other person or persons, in addition to the person or persons who held such last-mentioned office or employment on that day, to execute the duties of such last-mentioned office or employment, all the persons appointed to and executing the duties of such last-mentioned office or employment together shall be entitled to receive the difference between the net amount of the fees and emoluments received by virtue of that office or employment,

CLAUSE (C). If addition made to Number of Persons executing an Office, the whole Number to be entitled only to the same amount of Fees or Compensation as those before appointed.

and such net certified value as aforesaid, and shall account for such Fees and Emoluments, and pay over such surplus as aforesaid, in like manner as if such office or employment had continued to be held by the same person or persons who held the same on the said Twenty-fourth day of May, and no person appointed in addition as aforesaid shall be entitled to receive any more than his rateable part of such difference.

No Persons hereafter appointed to any Office, shall be entitled to claim Compensation.

And be it further Enacted, That no person, who, after the said Twenty-fourth day of May One thousand eight hundred and thirty, shall be appointed to any such office or employment as aforesaid shall, nor shall any person who may appear to the satisfaction of the Commissioners to be appointed by virtue of this Act to have accepted office upon condition of relinquishing any claim to compensation in case of its abolition, be deemed entitled to prefer any claim to compensation in respect of any alteration of any kind whatsoever, which shall be made by lawful authority, in the constitution, process, practice, pleadings or other proceedings of any of the said courts, or in the constitution, duties or emoluments of any of the said offices or employments, by such authority as aforesaid.

This Act not to prevent the dismissal of any Officer.

Provided always, and be it Enacted, That nothing herein contained shall be construed to prevent any person from being dismissed from any office or employment which he may have held on the said Twenty-fourth day of May One thousand eight hundred and thirty, in like manner as he might have been dismissed therefrom if this Act had not been made, or to give him any greater or other interest in such office or employment than he might have lawfully claimed or exercised if this Act had not been made.

Provision for payment in the event of any Offices being abolished.

Provided also, and be it Enacted, That if any such office or employment as aforesaid shall be abolished by lawful authority, every person, his heirs, executors or administrators, who under the provisions of this Act would have been entitled to receive the difference between the net amount of the Fees and Emoluments which would have become due, and the certified value of such office or employment, in case the said office or employment were not abolished, shall be entitled to receive, during all the time for which such person was entitled to hold the office or employment so abolished, such annual sum as the Lord High Treasurer or any Three of the Commissioners of His Majesty's Treasury for the time being, and the Lord Chief Justice or Lord Chief Baron of the Court to which such office or employment may belong, shall fix and appoint as a full and fair compensation for the loss of such office or employment, not exceeding in any case the amount of such certified value, and not being less in any case than Three-fourth parts thereof; and every person, who under the said provisions would be entitled to receive such difference during the joint continuance in office of himself and the person by whom he was appointed to any such office or employment, shall be entitled to receive such sum so to be fixed and appointed

appointed as aforesaid by the Lord High Treasurer or any Three of the Commissioners of His Majesty's Treasury for the time being, and the Lord Chief Justice or Lord Chief Baron of the Court to which such office or employment shall belong, during his natural life, if the person appointing him had such an interest in his office as would have so long continued, otherwise during such period only as his interest would have continued.

And be it further Enacted, That it shall be lawful for the Lord High Treasurer or Commissioners of His Majesty's Treasury for the time being, or any Three or more of them, to agree with any person or persons who on the said Twenty-fourth day of May One thousand eight hundred and thirty shall have held any such office or employment in fee, or for life or term of years, or otherwise, for the absolute purchase of such office or employment for any sum of money, which sum of money shall be paid out of the Consolidated Fund of the United Kingdom; and that from and after such purchase and payment all Fees and Emoluments which shall become due in respect of any such office or employment as shall be so purchased, and shall not have been abolished, shall be received by such person or persons as the Lord High Treasurer or any Three of the Commissioners of His Majesty's Treasury shall from time to time appoint by writing under their hands, and shall be paid into the receipt of the Exchequer, to the credit of and as part of the Consolidated Fund of the United Kingdom.

Power for the Treasury to buy out Offices in Fee, or Offices abolished.

And be it further Enacted, That nothing in this Act contained shall extend to require the render of any account of His Majesty's Judges of the courts of record at Westminster, other than such as is now required by law.

No new Account required from the Judges.

AND whereas, in case of future appointments to any of the offices or employments of which an account is required by this Act to be rendered, the Fees and Emoluments payable in respect of the duties of such offices or employments may exceed the amount of a reasonable remuneration to the officer holding the same, and it is therefore expedient to provide a power for reducing the same; BE it Enacted, That it shall be lawful for the Lord High Treasurer or the Commissioners of His Majesty's Treasury for the time being, or any three or more of them, when and as often as occasion may be or require, to reduce, so far as may appear reasonable, the amount of the Fees and Emoluments to be thereafter allowed to any officer who shall after the passing of this Act be appointed to any office or employment as to which an account is required by this Act to be rendered as aforesaid, and to direct that the surplus of the Fees and Emoluments to be received by him shall, after deducting such remuneration as aforesaid, be paid into the receipt of the Exchequer, to the credit of and as part of the Consolidated Fund of the United Kingdom: Provided always, That nothing herein contained shall affect any right which may be vested in or exercised by the said Courts, or

CLAUSE (D).
Account of Fees, &c. may be reduced, and Surplus paid into Treasury.

any of them, or any of the Judges or officers thereof, of appointing persons to offices or employments in the same, or of regulating and controlling the manner in which the duties of any such offices or employments shall be performed.

CLAUSE (E.)
No alteration
to be made in
establish-
ment of Offi-
ces, so as to
increase Dis-
bursements,
without con-
sent of the
Treasury.

And be it further Enacted, That it shall not be lawful for any officer required to render an account of any Fees or Emoluments by virtue of this Act, to make any addition to the number of persons employed in performing the duties of such offices or employment, or to the amount of remuneration to be paid or allowed to any person or persons in respect of such services, so as to increase the disbursements or expenses to be charged or claimed by such officer in respect of such office or employment, without the consent in writing of the said Lord High Treasurer or Commissioners of His Majesty's Treasury for the time being, or any Three or more of them.

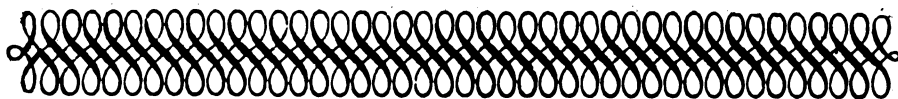
False swear-
ing under
this Act.

And be it further Enacted, That every person who shall swear falsely to any matter respecting which an oath, either personally or in writing is hereby required or authorized to be made, and shall be convicted of so doing wilfully and corruptly, shall be deemed guilty of wilful and corrupt perjury, and shall suffer the pains and penalties of that offence.

Power of
appointing
Commission-
ers.

And be it further Enacted, That it shall be lawful for the said Lord High Treasurer or the said Commissioners of His Majesty's Treasury for the time being, or any Three or more of them, from time to time as occasion may be or require, to appoint such and so many persons to be Commissioners for carrying this Act into effect as may to him or them appear fit and necessary, and any Three or more of such Commissioners to be appointed shall be competent to act in the execution thereof.

1 April 1830.



183

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B I L L

For uniting the Benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments of Scotland.

Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.

WH **H**EREA **S** an Act was passed in the fifty-fifth year of the Preamble.
reign of his late Majesty King George the Third, intituled, 55 G. 3. c. 42.
“ An Act to facilitate the Administration of Justice in that part of the
“ United Kingdom called Scotland, by the extending Trial by Jury to
5 “ Civil Causes;” by which Act certain Commissioners were appointed
for the trial of such causes, and certain regulations made in regard to
such trials:

And whereas another Act was passed in the fifty-ninth year of the reign 59 G. 3. c. 35.
of his said late Majesty, intituled, “ An Act to amend an Act passed
10 “ in the fifty-fifth year of the reign of His present Majesty, intituled,
“ “ An Act to facilitate the Administration of Justice in that part of
“ “ the United Kingdom called Scotland, by the extending Trial by
“ “ Jury to Civil Causes:”

And whereas another Act was passed in the sixth year of the reign of 6 G. 4. c. 120.
15 His present Majesty, intituled, “ An Act for the better regulating of
“ the Forms of Process in the Courts of Law in Scotland;” by which
last Act certain provisions were made relative to the Constitution of
the Jury Court, and which provisions are declared to continue and be
in force until the Thirtieth day of June in the year One thousand eight
hundred and thirty, and from thence to the end of the next Session
of Parliament; and it is further provided by the said last recited Act,
218. A that

that it should be lawful for His Majesty to appoint such persons as He should think fit, to make all inquiries as they should be directed by instructions from His Majesty, into the forms of proceeding in Trials of Civil Causes by Jury in Scotland, and to report whether these forms may be improved, and at what time and in what manner the union of the benefit of Jury Trial in Civil Causes with the jurisdiction of the Court of Session may be best accomplished : 5

And whereas pursuant to the said last recited Act His Majesty did, by an instrument under His Royal Sign Manual, appoint certain persons to make the inquiries set forth in the said last recited Act, as more particularly specified in instructions annexed to the said instrument under the Royal Sign Manual : 10

And whereas the said Commissioners so appointed have made a Report to His Majesty upon the subject-matters into which they were appointed to inquire ; which Report has been laid before both Houses of Parliament : 15

And whereas it is expedient that the said recited Acts should be altered and amended in certain particulars, and that provision should be made for accomplishing the union of the benefit of Jury Trial in Civil Causes with the jurisdiction of the Court of Session in Scotland ; and that in so doing, advantage should be taken of the knowledge and experience of the present Lord Chief Commissioner, and of the other Lords Commissioners of the Jury Court : 20

And whereas it is also expedient that certain other alterations and reductions should take place in the Judicial Establishments of Scotland ; 25

May it therefore please Your MAJESTY,

From Oct. 5,
1830, Union
of Trial by
Jury with the
ordinary Ad-
ministration
of Justice in
the Court of
Session, to
take place.

That it may be Enacted ; ~~And be it Enacted~~, by The KING'S most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *Fifth* day of *October* next after the passing of this Act, the jurisdiction for Trial by Jury in Civil Causes shall be united with and shall form part of the ordinary administration of justice in the Court of Session in Scotland ; and the trial of causes by jury shall take place in the Court of Session as hereinafter directed : Provided always, That the Jury Court and the jurisdiction thereof shall continue as now constituted until the said date, after which it shall cease and determine ; but without prejudice to the present Lord Chief Commissioner and the other Lords Commissioners of the Jury Court respectively continuing to perform the duties hereinafter directed. 30 35

And

189

And be it Enacted, That from and after such union, all such causes as by the last recited Act are held to be appropriate to the Jury Court, as also all such causes as the Court of Session shall from time to time declare by Act of Sederunt (which Act of Sederunt they are hereby empowered to make) to be appropriate to trial by jury, shall be tried by jury; and such causes, when first inrolled in the Outer House, shall be entered in a roll, to be intituled "Roll of Causes for Trial by Jury;" and it shall not be competent to enter the same in any other of the Rolls of the Outer House, or to proceed therein in any other way than in regard to causes appropriated for trial by jury; and all other causes which any Lord Ordinary or which either division of the Court of Session may direct to be tried by jury, shall in like manner be entered in a roll of causes for trial by jury, and shall be proceeded in accordingly.

All such Causes as are directed by Law, or by Court of Session, shall be tried by Jury.

And be it Enacted, That all causes set down in the said Roll shall be prepared for trial by jury in the same manner in all respects as is provided by the last recited Act, and by such regulations as shall have been previously made by the Court of Session in the execution thereof, for the preparation of causes for trial by jury; and such preparation shall proceed before the Lords Ordinary respectively before whom such causes shall first come: Provided always, That any such Ordinary may have recourse for advice and assistance in such preparation, and in all incidental matters preparatory to trial, to the Lord President of the division to which such Lord Ordinary may belong, or to the said Lord Chief Commissioner of the Jury Court, or to both of the said Judges.

All such Causes to be prepared for Trial as directed by Act of 6 G. 4. c. 120.

And be it Enacted, That from and after the period when such union shall take place as aforesaid, the Lords President of the two divisions shall respectively try by jury all issues arising out of causes originating in these divisions respectively when such trials take place at Edinburgh; and shall otherwise respectively discharge all duties previously performed by the Lord Chief Commissioner, in so far as may regard such causes: Provided always, That it shall continue to be competent to the said Lord Chief Commissioner to perform all duties relative to trial of civil causes by jury which it was previously lawful for him to discharge; and farther, that for the space of *Three* years from and after the time when such union shall take place, there shall be present and form part of the Court, upon all occasions when either of the Lords President of the two divisions of the Court of Session shall respectively try by jury any issue arising out of a civil cause, either the Lord Chief Commissioner of the Jury Court, or one of the Judges of the Court of Session, who at the time of such union shall have held the office of one of the Lords Commissioners of the Jury Court; and provided farther, that in the event of the indisposition or necessary absence of either of

Lords President to try all Jury Causes originating in their respective Divisions.

Provision in case of absence of Lord President.

the said Lords President, such issues shall, during the foresaid space of *Three* years, be tried either by the said Lord Chief Commissioner or by one of the said Judges of the Jury Court ; and that from and after the expiration of that period such issues shall, in the said events, be tried either by the said Lord Chief Commissioner or by any other Judge or Judges of the division of the Court before which the cause may depend. 5

Parties may apply for Trial of Issues to the Division to which the cause belongs.

And be it Enacted, That it shall and may be lawful for either party to apply to the division of the Court to which a cause belongs, that the issue or issues shall be tried before such division ; and such division may or may not, in its discretion, order such cause to be so tried. 10

Either Lord President may direct Issues to be tried before his Division of the Court.

And be it further Enacted, That the Lord President of each division of the Court shall have power, and he is hereby authorized and empowered, to order and direct that any issue or issues, instead of being tried by himself, shall be tried before the division of the Court to which he belongs : Provided always, That in trials before a division of the Court, the Lord Ordinary in the cause, unless prevented by indisposition or other necessary cause of absence, shall be one of the quorum of such court ; and further, that for the space of *Three* years as aforesaid, either the Lord Chief Commissioner or one of the foresaid Judges of the Jury Court, in case the said Lord Ordinary shall not himself be of one of that number, shall also be one of the quorum. 15 20

Proceedings in Error to be taken before the Division to which the cause belongs.

And be it Enacted, That all proceedings connected with the redress of errors or injustice alleged to have been committed in the trial of a cause, whether by motion for a new trial, bill of exceptions, points of law reserved, special verdict or special cases, or in whatever other legal form the same shall appear, and all questions reserved for decision after trial, and all other questions relating to the application of the verdict, or the rights and interests arising therefrom, shall proceed before the division of the Court to which the cause belongs : Provided always, That such division shall have power to order a hearing before the whole Court of Session, or to require the opinions of the other Judges, either on cases or on such points or questions as they may deem proper. 25 30

The present Lord Chief Commissioner to sit and vote as a Lord of Session in Jury Court cases.

And be it Enacted, That the said Lord Chief Commissioner shall be empowered and have right to sit and vote in both divisions of the Court as a Judge of the Court of Session, in the before-recited and all other proceedings touching any case standing in the roll of Jury Court causes, both before and after verdict, and shall be entitled to rank immediately after the Lord Justice Clerk. 35

Trials by Jury may proceed when the Division is not sitting.

And be it Enacted, That Trials by Jury may proceed upon Monday, or any other day or any other hour during session time, when the division is not sitting. 40

191

sion of the court before which the cause stands inrolled is not sitting; and it is further provided, that sittings for the trial of civil causes by jury shall be held at Edinburgh by the Lords President of the divisions respectively, or by the other Judges as already provided, immediately
 5 after the termination of the winter and summer sessions of the Court respectively, which sittings shall be continued until the issues in causes ready for trial shall be disposed of; and each of the divisions of the Court of Session shall have power, and they are hereby authorized and required, to hold additional sittings in the Christmas recess yearly, in
 10 case any causes shall be entered as ready for trial at that time.

And be it Enacted, That it shall and may be lawful for His Majesty, His heirs and successors, with consent of His privy council, and He is hereby empowered, if He shall think fit, to order and direct that the winter and summer session of the Court of Session, or either of them,
 15 shall be prolonged, and to specify the time or times when such prolongation shall take place, and the precise duration thereof: Provided always, That such prolongation shall not on the whole exceed the space of *One calendar month* in the course of the year; and that it shall in like manner be lawful for His Majesty thereafter to direct that such
 20 prolongation be diminished as to duration, and altered or varied as to the time or times when the same shall take place, and that the same shall in like manner be again extended, as occasion may require; and the Court of Session shall sit at the time or times, and during the period or periods which may be so ordered by His Majesty; and for the infor-
 25 mation of His Majesty in this behalf, the Lord President of the Court of Session is hereby required, on or before the *Fifteenth day of January* in every year, to transmit to one of His Majesty's principal Secretaries of State a return, according to the form prescribed in the Schedule hereunto annexed; which return shall be laid before both Houses of
 30 Parliament.

Provision for the prolongation of the Winter and Summer Session.

And be it Enacted, That all causes or issues appointed to be tried before any Circuit Court, shall and may be so tried before any one or more of the Lords Commissioners of Justiciary when upon circuit; and at all trials before any circuit court the jury may either be taken from the lists
 35 prepared for the trial of criminal offences: Provided always, That it shall be competent to either division of the Court of Session to direct any causes or issues to be tried by any other Judge or Judges of the Court of Session at any circuit town, and for the trial of the same to cause jurymen to be summoned in the manner previously observed in
 40 trials at circuit by the Judges of the Jury Court.

Issues before any Circuit Court may be tried by Lords of Justiciary on Circuit.

Mode of forming Jury.

And be it Enacted, That the clerks of the Jury Court shall continue to discharge the duties of their respective offices in the Court of Session

218.

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after

Clerks in Jury Court to discharge similar Duties in Court of Session.

Services of
other Officers
to be dis-
pensed with.

Vacancies in
the Issue
Clerks to be
supplied, and
Number of
other Clerks
of Session to
be reduced.

after such union, and that all other inferior offices in the Jury Court shall be and the same are hereby abolished.

And be it Enacted, That in the event of the death, resignation or removal of either of the issue clerks, a successor to such clerk as clerk of the issues may be appointed; but it is hereby provided, that according as vacancies shall occur among the other principal clerks of session, their number shall be reduced, so that, including the two issue clerks, there shall eventually be only *Six* principal clerks of session.

Provision as
to Successors
of the Clerks
of Session in
the Jury
Court, &c.

And be it Enacted, That the successors of the two clerks of processes in the Jury Court shall be depute clerks of session; and that as vacancies occur, the number of such depute clerks shall be reduced, so that there shall eventually be only *Six* depute clerks of session; and that in like manner the other clerks belonging to the Court of Session shall be so reduced as that their total number, including those connected with proceedings in trial by jury, shall eventually not exceed the number of such clerks exclusively belonging to the Court of Session at the passing of this Act.

Appointment
of depute
Clerks to be in
His Majesty.

And be it Enacted, That the appointment of depute clerks of session shall be vested in His Majesty; and it is hereby provided, that during the necessary absence of any principal clerk of session, it shall be competent for any depute clerk of session to discharge the duties of such principal clerk.

Provisions of
above recited
Acts to re-
main in force,
where not in-
consistent
with this Act.

And be it Enacted, That all the provisions of the foresaid recited Acts now in force, in so far as not inconsistent with this Act, and all rules and regulations in observance in the Jury Court at the time of the union of jury trial in civil causes with the administration of justice in the Court of Session, shall continue and be observed as provisions, rules and regulations applicable to the Court of Session after such union, until the same shall be altered by competent authority; and it is hereby provided, that the said Court of Session shall have full power and authority, by Acts of Sederunt, to make all regulations for duly adapting the provisions in force and the rules previously observed in the Jury Court to the proceedings in the Court of Session, and afterwards to alter and amend such rules when necessary: Provided always, That such regulations be nowise inconsistent with the provisions of this Act; and that all Acts of Sederunt authorized by this Act to be made, shall be laid before Parliament, if sitting, within *Fifteen* days from the respective dates thereof; and if Parliament be not sitting, within *Fifteen* days from and after the next meeting of Parliament.

Such Regula-
tions to be
laid before
Parliament.

No Successors
to be appoint-
ed to the pre-
sent Jury
Court Judges.

And be it Enacted, That in the event of the death or resignation of the said Lord Chief Commissioner, or of any of the other Lords Commissioners

missioners of the Jury Court, no successor shall be appointed to any such Judge or Judges as Commissioner of the Jury Court.

And be it Enacted, That from and after the termination of the present existing interest in the office of Lord Justice General, that office shall devolve upon and remain united with the office of Lord President of the Court of Session, who shall duly perform the duties thereof as presiding Judge in the Court of Justiciary; and it is hereby provided, that the salary attached to the office of Lord Justice General shall thereupon cease, and that the appointment of Macers of the said Court shall be vested in His Majesty.

Office of Lord Justice General to devolve on Lord President.

And be it Enacted, That as vacancies shall occur among the permanent Lords Ordinary of the Court of Session, whether by death, resignation, or removal into one of the divisions of the Inner House, such vacancies shall not be filled up until the number of permanent Lords Ordinary shall be reduced to *Five*, so that the total number of Judges composing the Court of Session, including the Lord President and the Lord Justice Clerk, shall be limited to Thirteen.

Lords Ordinary to be reduced to Five, and the Court to Thirteen.

AND whereas all Maritime causes may now be brought by review before the Court of Session, and much of the business of the Court of Admiralty has been transferred to the Jury Court: AND whereas the Court of Justiciary holds a concurrent jurisdiction with the Court of Admiralty in matters connected with crime, and the said Court is competent to try all offences committed upon the high seas: AND whereas it has become unnecessary and inexpedient to maintain any other court for Maritime or Admiralty causes; BE it therefore Enacted, That all maritime actions, or causes of a civil nature, where the matter in dispute shall amount to or exceed in value the sum of *Twenty five pounds sterling*, may be instituted before the Court of Session; and where such value shall not amount to the said sum, such action may be instituted before the sheriff of the county within whose jurisdiction the defender shall be domiciled.

Transference of Admiralty Jurisdiction.

And be it Enacted, That the Sheriffs of Scotland shall hold and exercise an admiralty jurisdiction, both civil and criminal, over their respective counties, comprehending the adjoining seas, such as they now possess in civil and criminal causes, and in like manner subject to the review of the Courts of Session and Justiciary respectively.

Jurisdiction of Sheriffs in Admiralty cases.

And be it Enacted, That where counties are separated from each other by a river, or by a firth or estuary, the Sheriffs of the counties adjoining to the sides thereof shall have a concurrent jurisdiction over the whole intervening space so occupied by water: Provided always, That the pursuer of all such civil causes shall, where such concurrent jurisdiction

Provision when Counties are separated by Water.

diction applies, bring the cause before the Sheriff of that county within which the defender resides ; and that Sheriffs shall respectively have power to remit such causes from their own court to that of another Sheriff ob contingentiam.

Office of
Judge Admi-
ral abolished.

List of causes
to be trans-
mitted by
him.

And be it Enacted, That from and after the commencement of this 5
Act, the office of the Judge Admiral shall be and the same is hereby
abolished ; as also the offices of all clerks and officers belonging to that
court ; and it is hereby provided, that the Judge Admiral shall, on the
day of such abolition, cause a list to be made out of all causes then de- 10
pending before the Court of Admiralty, distinguishing as nearly as may
be those where the matter in dispute amounts to or exceeds in value
the sum of *Twenty-five pounds sterling*, from those where the amount is
less than that sum, which list shall be accompanied with a report con-
taining such observations in regard to all or any of such causes as the
Judge Admiral may deem material ; and the Judge Admiral shall cause 15
such list and report, together with all processes or proceedings relative
to causes undecided which shall then be in the hands of his clerk, to be
transmitted to the clerk of King's processes in the Court of Session,
who shall submit the same to the consideration of the Lord President.

Provision for
processes not
in the hands
of the Clerk.

And be it further Enacted, That where any such processes or pro- 20
ceedings shall not be in the hands of the clerk of the Court of Admiralty,
or if any cause shall happen to be omitted from the list so to be pre-
pared by the Judge Admiral, it shall be lawful for the Lord President,
on the application of any party, to grant diligence for the recovery and
production of the same before him ; and it is hereby provided, that 25
all causes contained in the list aforesaid, or which shall afterwards be
produced as aforesaid, where the matter in dispute shall amount to or
exceed in value the sum of *Twenty-five pounds sterling*, shall respec-
tively be remitted to such Lord Ordinary as the Lord President shall
direct, and shall thereafter be prepared and decided by such Lord Or- 30
dinary and by the division of the court to which he may belong, in the
same way as if such action had in terms of this Act been instituted in
the Court of Session ; and it is further provided, that where the matter
in dispute shall not amount in value to the said sum of *Twenty-five*
pounds sterling, any such cause may in like manner be remitted to a 35
Lord Ordinary for decision, either where the parties shall consent
thereto, or where the Lord President shall consider it proper that such
cause should be so disposed of ; and in all other cases the Lord Pre-
sident shall cause the same to be transmitted to the sheriff of the county
within the jurisdiction of whose court the defender was domiciled at the 40
time when such action was raised, accompanied with such instructions
for bringing such causes, or any of them, in a proper manner before the
court of the sheriff, as the Lord President may deem expedient, which
instructions he is hereby empowered to give, and the sheriff is hereby
required

required to obey ; and all such causes, when so brought before the sheriff, shall be prepared and decided as if such action had been instituted before his court in terms of this Act.

And be it Enacted, That all actions of declarator of marriage and of nullity of marriage, and all actions of declarator of legitimacy and of bastardy, and all actions of adherence and of divorce, and all actions of aliment at the instance of either husband or wife, and all actions of separation a mensa et thoro, shall be competent to be brought and insisted on only before the Court of Session in the first instance ; and such actions shall originate in the Inner House of the Court of Session.

Certain Consistorial Actions to be instituted in the Court of Session.

And be it Enacted, That the jurisdiction of the Court of the Commissaries of Edinburgh quoad such actions, shall entirely cease ; and that all such actions which shall be depending before such court at the commencement of this Act, shall be forthwith transmitted to the Court of Session, to be proceeded in as directed by this Act ; Provided always, That where a proof shall have been allowed by the said Court of the Commissaries, previous to the commencement of this Act, such proof shall be concluded before such action shall be transmitted as herein directed.

Jurisdiction of the Commissaries in such Actions to cease.

And be it Enacted, That it shall be competent for the division of the Court of Session before which any such action shall be brought, to remit the same to a Lord Ordinary, for the purpose of having such action prepared for decision, and who shall in all actions of divorce administer the usual oath of calumny to the pursuer ; but such decision shall alone be pronounced by the division of the court before which the cause shall depend : Provided always, That no such decision shall be pronounced, whether appearance shall or shall not be made for the defender, until the grounds of action shall be substantiated by sufficient evidence.

Regulations in regard to the same.

And be it Enacted, That such causes shall not be declared generally appropriate to trial by Jury, but it shall be competent to either divisions of the Court of Session to direct that any such cause, or any issue or issues of fact connected therewith, shall be tried by Jury ; and it is hereby provided, That in all such trials, the oath in use in the Court of the Commissaries of Edinburgh shall be administered.

Oath to be taken.

And be it Enacted, That when the Court of Session shall order a proof in any such cause to be taken by commission, the remit to take such proof shall be made to the Commissary Court of Edinburgh, which Court shall administer to witnesses the oath now in use in the said Court ; and it is hereby provided, that in all causes where there shall be no appearance for the defender, and in such other cases as may be

Regulations as to Proofs.

deemed expedient, the said Court shall along with the proof so taken, transmit a report setting forth any circumstances or considerations which may be deemed material for the information of the Court of Session, and in particular how far there is reason to consider such action to be in any degree of a collusive nature, or the contrary. 5

Offices of
Three of the
Commissaries
abolished.

And be it Enacted, That as vacancies occur, the offices of *Three* of the Judges of the Court of the Commissaries of Edinburgh shall be and the same are hereby abolished; and that the said Court shall ultimately consist of one Judge, who shall in respect of the salary to be paid to him, perform all the duties connected with the jurisdiction of the said Court, and shall, as Commissioner, take all proofs in questions of a consistorial nature, which shall be remitted to him as aforesaid by the Court of Session; and no Judge of said Court shall receive any additional remuneration on that account; and it is hereby provided, that the incorporated Society of Solicitors entitled to practise before the Court of the Commissaries of Edinburgh shall have right to conduct such proofs, and to act as procurators in all causes depending before said Court, in the same way as heretofore, whether the said Court shall consist of four Judges or a smaller number, and shall have the exclusive right of conducting before the said Court whatever may concern the obtaining of confirmation, and the giving up of inventories of moveable or personal estate, both in the case of testate and intestate succession. 10 15 20

Two Barons
of the Court
of Exchequer
to be reduced.

And be it Enacted, That as vacancies shall occur in the office of Baron of the Court of Exchequer in Scotland, the same shall not be filled up until the number of such Barons shall be reduced, so that the said Court shall consist only of the Lord Chief Baron and of one Baron of Exchequer; and it is hereby provided, that it shall be competent to these Judges, and to either of them in the absence of the other, to exercise the whole jurisdiction and powers of the Court of Exchequer: Provided always, That where the said Court shall at any time deem it expedient, it shall be competent to the said Court to require of the Lord President of the Court of Session, that one Judge of that Court shall be directed to attend the Court of Exchequer; and on receiving such requisition, one of the ordinary Judges of the Court of Session shall attend the said Court of Exchequer, and shall have voice and vote in all matters then to be brought before the said Court, in the same way in all respects as if such Judge were a Baron of the Court of Exchequer. 25 30 35

Commence-
ment of Act.

And be it Enacted, That the whole provisions of this Act, unless where otherwise herein specially provided, shall commence and take effect from and after the *Fifth day of October* next after the passing of this Act.

SCHEDULE to which this Act refers.

RETURN of the Number of CAUSES instituted and decided in the Court of Session in Scotland, between the 1st day of January 18
and the 1st day of January 18 ; shewing the Number of Causes ready for Judgment, but not disposed of at the last of these Dates.

OUTER HOUSE.

| NAMES of LORDS ORDINARY. | Number of Causes for the first time inrolled before each Lord Ordinary. | Number of Decrees in Absence. | Number of Final Judgments pronounced in litigated Causes. | Number of Causes ready for Debate, but not heard; with the Date when the first of these Causes was first inrolled in the Debate-roll. | Number of Causes at Avizandum. | OBSERVATIONS. |
|--------------------------------|---|----------------------------------|--|--|-----------------------------------|---------------|
| | | | | | | |

INNER HOUSE.

| | Number of reclaiming Notes presented against Judgment of Lords Or- dinary, in the course of the above year. | Number of incidental and sum- mary Applications presented during the same period, dis- tinguishing those which have passed as matters of Form, from such as have been fol- lowed by Litigation. | Number of Final Judg- ments pronounced in litigated Causes, without the inter- vention of a Jury. | Number of Causes tried by Jury. | Number of Causes ready for Judg- ment on hearing Counsel or otherwise; with the Date when the first of such Causes was so ready, and distinguishing those to be tried by Jury from such as are not to be so tried. | OBSERVATIONS. |
|-------------------|---|---|---|---------------------------------------|--|---------------|
| First Division - | | | | | | |
| Second Division - | | | | | | |

A. B. Lord President.

11 Geo. IV.—Sess. 1830.

A

B I L L

For uniting the Benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments of Scotland.

Ordered, by The House of Commons to be Printed,

1 April 1830.

10 May 1830.

199



A

B I L L

[AS AMENDED BY THE COMMITTEE]

For uniting the Benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments of *Scotland*.

N. B.—*The Clauses marked (A. to L.) were added by the Committee.*

WH^{EREAS} an Act was passed in the fifty-fifth year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act to facilitate the Administration of Justice in that part of the United Kingdom called *Scotland*, by the extending Trial by Jury to Civil Causes;" by which Act certain Commissioners were appointed for the trial of such causes, and certain regulations made in regard to such trials:

Preamble.

55 G. 3. c. 42.

And whereas another Act was passed in the fifty-ninth year of the reign of his said late Majesty, intituled, "An Act to amend an Act passed in the fifty-fifth year of the reign of His present MAJESTY, intituled, 'An Act to facilitate the Administration of Justice in that part of the United Kingdom called *Scotland*, by the extending Trial by Jury to Civil Causes:'"

59 G. 3. c. 35.

And whereas another Act was passed in the sixth year of the reign of His present Majesty, intituled, "An Act for the better regulating of the Forms of Process in the Courts of Law in *Scotland*;" by which last Act certain provisions were made relative to the Constitution of the Jury Court, and which provisions are declared to continue and be in force until the Thirtieth day of June in the year One thousand eight hundred and thirty, and from thence to the end of the next Session of Parliament; and it is further provided by the said last recited Act,

6 G. 4. c. 120.

384.

A

that

that it should be lawful for His Majesty to appoint such persons as He should think fit, to make all inquiries as they should be directed by instructions from His Majesty, into the forms of proceeding in Trials of Civil Causes by Jury in *Scotland*, and to report whether these forms may be improved, and at what time and in what manner the union of the benefit of Jury Trial in Civil Causes with the jurisdiction of the Court of Session may be best accomplished : 5

And whereas pursuant to the said last recited Act His Majesty did, by an instrument under His Royal Sign Manual, appoint certain persons to make the inquiries set forth in the said last recited Act, as more particularly specified in instructions annexed to the said instrument under the Royal Sign Manual : 10

And whereas the said Commissioners so appointed have made a Report to His Majesty upon the subject-matters into which they were appointed to inquire ; which Report has been laid before both Houses of Parliament : 15

And whereas it is expedient that the said recited Acts should be altered and amended in certain particulars, and that provision should be made for uniting the benefits of Jury Trial in Civil Causes with the ordinary jurisdiction of the Court of Session in *Scotland* ; and that in so doing, advantage should be taken of the knowledge and experience of the present Lord Chief Commissioner, and of the other Lords Commissioners of the Jury Court : 20

And whereas it is also expedient that certain other alterations and reductions should take place in the Judicial Establishments of *Scotland* ; 25

May it therefore please Your MAJESTY,

That it may be Enacted ; ~~And be it Enacted~~, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the Fifth day of October next after the passing of this Act, the jurisdiction for Trial by Jury in Civil Causes shall be united with and shall form part of the ordinary administration of justice in the Court of Session in *Scotland* ; and the trial of causes by jury shall take place in the Court of Session as hereinafter directed : Provided always, That the Jury Court and the jurisdiction thereof shall continue as now constituted until the said date, after which it shall cease and determine ; but without prejudice to the present Lord Chief Commissioner and the other Lords Commissioners of the Jury Court respectively continuing to perform the duties hereinafter directed. 30 35

From Oct. 5, 1830, Union of Trial by Jury with the ordinary Administration of Justice in the Court of Session, to take place.

And

And be it Enacted, That from and after such union, all such causes as by the last recited Act are held to be appropriate to the Jury Court, as also all such causes, with the exception after mentioned, as the Court of Session shall from time to time declare by Act of Sederunt (which Act of Sederunt they are hereby empowered to make) to be appropriate to trial by jury, shall be tried by jury; and such causes, when first inrolled in the Outer House, shall be entered in a roll, to be intituled "Roll of Causes for Trial by Jury;" and it shall not be competent to enter the same in any other of the Rolls of the Outer House, or to proceed therein in any other way than in regard to causes appropriated for trial by jury; and all other causes which any Lord Ordinary or which either division of the Court of Session may direct to be tried by jury, shall in like manner be entered in a roll of causes for trial by jury, and shall be proceeded in accordingly.

All such Causes as are directed by Law, or by Court of Session, shall be tried by Jury.

And be it Enacted, That all causes set down in the said Roll shall be prepared for trial by jury in the same manner in all respects as is provided by the last recited Act, and by such regulations as shall have been previously made by the Court of Session in the execution thereof, for the preparation of causes for trial by jury; and such preparation shall proceed before the Lords Ordinary respectively before whom such causes shall first come: Provided always, That any such Ordinary may have recourse for advice and assistance in such preparation, and in all incidental matters preparatory to trial, to the Lord President of the division to which such Lord Ordinary may belong, or to the said Lord Chief Commissioner of the Jury Court.

All such Causes to be prepared for Trial as directed by Act of 6 G. 4. c. 120.

And be it Enacted, That from and after the period when such union shall take place as aforesaid, the Lords President of the two divisions shall respectively try by jury all issues arising out of causes originating in these divisions respectively when such trials take place at *Edinburgh*; and may otherwise respectively discharge all duties previously assigned to the Lord Chief Commissioner, in so far as may regard such causes: Provided always, That it shall continue to be competent to the said Lord Chief Commissioner to perform all duties relative to trial of civil causes by jury which it has been heretofore lawful for him to discharge; and farther, that for the space of Three years from and after the time when such union shall take place, there shall be present and form part of the Court, upon all occasions when either of the Lords President of the two divisions of the Court of Session shall respectively try by jury any issue arising out of a civil cause, either the Lord Chief Commissioner of the Jury Court, or one of the Judges of the Court of Session, who at the time of such union shall have held the office of one of the Lords Commissioners of the Jury Court; and provided farther, that in the event of the indisposition or necessary absence of either of

384.

Lords President to try all Jury Causes originating in their respective Divisions.

Provision in case of absence of Lord President.

the said Lords President, such issues shall, during the foresaid space of Three years, be tried either by the said Lord Chief Commissioner along with one of the Judges of the Court of Session, or by at least two Judges of the Court of Session, whereof there shall be one of the said Judges of the Jury Court ; and that from and after the expiration 5 of that period, such issues shall in the said events be tried by any other Judge or Judges of the division of the Court before which the cause may depend.

Parties may apply for Trial of Issues to the Division to which the cause belongs.

And be it Enacted, That it shall and may be lawful for either party to apply to the division of the Court to which a cause belongs, that the 10 issue or issues shall be tried before such division ; and such division may or may not, in its discretion, order such cause to be so tried.

Either Lord President may direct Issues to be tried before his Division of the Court.

And be it further Enacted, That the Lord President of each division of the Court shall have power, and he is hereby authorized and empowered, to order and direct that any issue or issues shall be tried 15 before the division of the Court to which he belongs : Provided always, That in trials before a division of the Court, the Lord Ordinary in the cause, unless prevented by indisposition or other necessary cause of absence, shall be one of the Judges of such court ; and further, that for the space of Three years as aforesaid, either the Lord Chief 20 Commissioner or one of the foresaid Judges of the Jury Court shall be one of the Court on occasion of such trials.

Proceedings in Error to be taken before the Division to which the cause belongs.

And be it Enacted, That all proceedings for the correction of errors or injustice alleged to have been committed in the trial of a cause, whether by motion for a new trial, or by bill of exceptions, or by points 25 of law reserved at the trial, special verdict or special cases, and all questions reserved for decision after trial, and all other questions relating to the application of the verdict, or the rights and interests arising therefrom, and all questions of expenses, shall proceed before the division of the Court to which the cause belongs : Provided always, That such 30 division shall have power to order a hearing before the whole Court of Session, or to require the opinions of the other Judges, either on cases or on such points or questions as they may deem proper.

The present Lord Chief Commissioner to sit and vote as a Lord of Session in Jury Court cases.

And be it Enacted, That the said Lord Chief Commissioner shall be empowered and have right to sit and vote in both divisions of the 35 Court as a Judge of the Court of Session, in the before-recited and all other proceedings touching any case standing in the roll of Jury Court causes, both before and after verdict, and shall be entitled to rank immediately after the Lord Justice Clerk.

Trials by Jury may proceed when the Division is not sitting.

And be it Enacted, That Trials by Jury may proceed upon every Monday, and at all such times during Session as the division of the 40 Court

Court before which the cause stands inrolled shall appoint; and all causes remaining untried and entered as ready for trial, at the termination of the winter or summer sessions, or at the commencement of the Christmas recess, shall be tried at sittings of the Court to be held immediately after these several periods.

And be it Enacted, That it shall and may be lawful for His Majesty, His heirs and successors, with consent of His privy council, and He is hereby empowered, if He shall think fit, to order and direct that the winter and summer sessions of the Court of Session, or either of them, shall be extended, and to specify the time or times of such extension, and the precise duration thereof: Provided always, That such extension shall not on the whole exceed the space of One calendar month in the course of the year; and that it shall in like manner be lawful for His Majesty thereafter to direct that such extension be diminished as to duration, and altered or varied as to the time or times when the same shall take place, and that the sessions shall in like manner be again extended as occasion may require, and the Court of Session shall sit at the time or times, and during the period or periods which may be so ordered by His Majesty; and for the information of His Majesty in this behalf, the Lord President of the Court of Session is hereby required, on or before the Fifteenth day of January in every year, to transmit to one of His Majesty's principal Secretaries of State a return, according to the form prescribed in the Schedule hereunto annexed; which Return shall be laid before both Houses of Parliament.

Provision for extending the Winter and Summer Sessions.

And be it Enacted, That all causes or issues appointed to be tried before any Circuit Court, shall and may be so tried before any one or more of the Judges of the Court of Justiciary when upon circuit; and at all trials before any circuit court the jury may either be taken from the lists prepared for the trial of criminal offences, or from a list of jurymen to be summoned in the manner heretofore observed in trials at circuit by the Jury Court: Provided always, That it shall be competent to either division of the Court of Session to direct any causes or issues to be tried by any other Judge or Judges of the Court of Session at any circuit town, and for the trial of the same to cause jurymen to be summoned in the manner herein last mentioned.

Issues before any Circuit Court may be tried by Lords of Justiciary on Circuit.

Mode of forming Jury.

And be it Enacted, That the clerks and macers of the Jury Court shall continue to discharge the duties of their respective offices in the Court of Session after such union; and that all other inferior offices in the Jury Court shall be and the same are hereby abolished.

Clerks in Jury Court to discharge similar Duties in Court of Session. Services of other Officers to be dispensed with.

And be it Enacted, That in the event of the death, resignation or removal of either of the issue clerks, a successor to such clerk as clerk of the

Vacancies in the Issue Clerks to be

supplied, and
Number of
other Clerks
of Session to
be reduced.

the issues may be appointed; but it is hereby provided, that according as vacancies shall occur among the other principal clerks of session, their number shall be reduced, so that, including the two issue clerks, there shall eventually be only Six principal clerks of session.

Provision as
to Successors
of the Clerks
of Session in
the Jury
Court &c.

And be it Enacted, That the successors of the two clerks of processes in the Jury Court shall be depute clerks of session; and that as vacancies occur, the number of such depute clerks shall be reduced, so that there shall eventually be only Six depute clerks of session; and that in like manner the other clerks belonging to the Court of Session shall be so reduced as that their total number, including those connected with proceedings in trial by jury, shall eventually not exceed the number of such clerks exclusively belonging to the Court of Session at the passing of this Act; and it is farther provided, that as vacancies shall occur in the office of macer, the number of macers shall be reduced, so that they shall not exceed the number of macers officiating exclusively in the Court of Session at the passing of this Act.

Appointment
of Depute
Clerks to be in
His Majesty.

And be it Enacted, That the appointment of depute clerks of session shall be vested in His Majesty; and it is hereby provided, that during the necessary absence of any principal clerk of session, it shall be competent for any depute clerk of session to discharge the duties of such principal clerk.

Provisions of
above recited
Acts to re-
main in force,
where not in-
consistent
with this Act.

And be it Enacted, That all the provisions of the foresaid recited Acts now in force, in so far as not inconsistent with this Act, and all rules and regulations in observance in the Jury Court at the time of the union of jury trial in civil causes with the administration of justice in the Court of Session, shall continue and be observed as provisions, rules and regulations applicable to the Court of Session after such union, until the same shall be altered by competent authority; and it is hereby provided, that the said Court of Session shall have full power and authority, by Acts of Sederunt, to make all regulations for duly adapting the forms previously observed in the Jury Court to the proceedings in the Court of Session, and afterwards to alter and amend such regulations when necessary: Provided always, That such regulations be not inconsistent with the provisions of this Act; and that all Acts of Sederunt authorized by this Act to be made, shall be laid before Parliament, if sitting, within Fifteen days from the respective dates thereof, and if Parliament be not sitting, within Fifteen days from and after the next meeting of Parliament.

Such Regula-
tions to be
laid before
Parliament.

No Successors
to be appoint-
ed to the pre-
sent Jury
Court Judges.

And be it Enacted, That in the event of the death or resignation of the said Lord Chief Commissioner, or of any of the other Lords Commissioners of the Jury Court, no successor shall be appointed to any such Judge or Judges as Commissioner of the Jury Court.

And

And be it Enacted, That from and after the termination of the present existing interest in the office of Lord Justice General, that office shall devolve upon and remain united with the office of Lord President of the Court of Session, who shall duly perform the duties thereof as
 5 presiding Judge in the Court of Justiciary ; and it is hereby provided, that the salary attached to the office of Lord Justice General shall thereupon cease, and that the appointment of macers of the said Court shall be vested in His Majesty.

Office of Lord Justice General to devolve on Lord President.

And be it Enacted, That as vacancies shall occur among the permanent Lords Ordinary of the Court of Session, whether by death, resignation, or removal into one of the divisions of the Inner House, such vacancies shall not be filled up until the number of permanent Lords Ordinary shall be reduced to Five, so that the total number of Judges composing the Court of Session, including the Lord President and the
 10
 15 Lord Justice Clerk, shall be limited to Thirteen.

Lords Ordinary to be reduced to Five, and the Court to Thirteen.

AND whereas all Maritime causes may now be brought by review before the Court of Session, and many causes formerly heard and determined by the Court of Admiralty are now remitted to the Jury Court : AND whereas the Court of Justiciary holds a cumulative jurisdiction
 20 with the Court of Admiralty as to all crimes competent to be tried by the Court of Admiralty : AND whereas it has become unnecessary and inexpedient to maintain any other court for Maritime or Admiralty causes ; BE it therefore Enacted, That the High Court of Admiralty be abolished, and that hereafter the Court of Session shall hold and
 25 exercise jurisdiction in all maritime civil causes and proceedings of the same nature and extent in all respects as that held and exercised in regard to such causes by the High Court of Admiralty before the passing of this Act : Provided always, That all such causes not exceeding the value of Twenty-five pounds sterling, shall be instituted and carried on
 30 in the first instance before an Inferior Court.

CLAUSE (A.)
Transference of Admiralty Jurisdiction.

6 Geo. 4.
c. 120. § 29.

9 Geo. 4.
c. 29. § 16.

And be it Enacted, That the Sheriffs of *Scotland* and their substitutes shall within their respective sheriffdoms, including the navigable rivers, ports, harbours, creeks, shores and anchoring grounds in or adjoining to such sheriffdoms, hold and exercise jurisdiction in all maritime
 35 causes and proceedings, civil and criminal, of the same nature as that heretofore held and exercised by the High Court of Admiralty.

CLAUSE (B.)
Sheriffs to have jurisdiction in Maritime causes

And be it Enacted, That all rules regarding the finding of caution and using of arrestment heretofore observed in the High Court of Admiralty, may continue to be enforced ; and maritime causes may be heard and determined by the Sheriff according to the same modes and rules which are applicable in the Court of the Sheriff to causes not maritime, including the mode prescribed in an Act passed in the tenth

CLAUSE (C.)
Maritime causes to be tried in same manner as other causes.

year of the reign of His present Majesty, intituled, " An Act for the
 " more effectual recovery of Small Debts, and for diminishing the Ex-
 " penses of Litigation in causes of small amount, in the Sheriff Courts
 " in *Scotland*;" and the sentences pronounced by Sheriffs in maritime
 causes shall be subject to review by the Courts of Session and Justiciary 5
 respectively, in the same way and manner in which sentences of
 Sheriffs in similar causes not maritime are subject to review : Provided
 always, That it shall not be competent to the Sheriff to try any crime
 committed on the seas, of a nature which it would not be competent
 for that Judge to try if the crime had been committed on land. 10

Provision
 when Coun-
 ties are sepa-
 rated by
 Water.

And be it Enacted, That where counties are separated from each
 other by a river, or by a firth or estuary, the Sheriffs of the counties ad-
 joining to the sides thereof shall have a cumulative jurisdiction over the
 whole intervening space so occupied by water : Provided always, That
 the pursuer of all such civil causes shall, where such cumulative juris- 15
 diction applies, bring the cause before the Sheriff of that county within
 which the defender may reside ; and that Sheriffs shall respectively have
 power to remit such causes from their own court to that of another
 Sheriff *ob contingentiam*, or for other sufficient cause.

CLAUSE (D.)

Office of
 Judge Admi-
 ral abolished.

Provisions for
 depending
 Actions.

And be it Enacted, That from and after the commencement of this 20
 Act, the office of the Judge Admiral shall be and the same is hereby
 abolished, as also the offices of all clerks and officers belonging to that
 court ; and it is hereby provided, that all actions and proceedings
 which shall be depending on the said Fifth day of October before the
 High Court of Admiralty, shall be transferred to the sheriff of the 25
 county wherein such action and proceeding might have originated if
 this Act had been passed previously to the commencement of such
 actions or proceedings, and the same shall thereupon be heard and de-
 termined in the same manner as if they had been brought before such
 sheriff in the first instance ; and as soon as conveniently may be after 30
 the said fifth of October, the processes in all such depending actions
 shall be transmitted accordingly to such sheriff by the clerk of the High
 Court of Admiralty, together with an inventory made by the said clerk,
 to the accuracy whereof he shall make oath if required : Provided al-
 ways, That when the parties to any such cause shall give in a joint note 35
 to the Judge Admiral, setting forth their wish that such cause should
 proceed in the Court of Session instead of being so transferred to the
 sheriff, and shall therein specify the Lord Ordinary by whom they are
 desirous that such cause should be decided, the Judge Admiral shall
 thereupon make an order, directing such cause to be inrolled before 40
 such Ordinary, and the same shall thereupon be so inrolled; and such
 cause shall thereafter be heard and determined in the same way as if
 such cause had been instituted in the Court of Session in terms of this
 Act.

And

CLAUSE (E.)

Provision as
to other Pro-
cesses.

And be it Enacted, That as soon as conveniently may be after the Fifth day of October next after the passing of this Act, all other processes, records, and warrants of decrees, together with an inventory thereof, made by the Admiralty clerk, which he is hereby required to do, and to make oath to the accuracy thereof if required, shall be transmitted to the General Register House at *Edinburgh*.

CLAUSE (F.)

Sheriff Clerks
to act as
Clerks to She-
riffs in Mari-
time causes.

And be it Enacted, That the sheriff clerk of the several counties of *Scotland* shall respectively act as clerk to the Sheriff in maritime causes: Provided always, That neither that officer, nor any other person appointed to any office, or acquiring right to any fees or emoluments in virtue of the provisions of this Act, shall be entitled to prefer any claim to compensation in consequence of the subsequent abolition of such office or fees, or of any alteration therein.

CLAUSE (G.)

As to inferior
Admiralty
Jurisdiction.

And be it Enacted, That all inferior Admiralty jurisdiction, not dependent upon the High Court of Admiralty, shall continue as heretofore; but the judgments of such Courts shall be subject to review solely in the Courts of Session and Justiciary respectively.

CLAUSE (H.)

Each of the
Sheriffdoms
of *Edinburgh*,
Haddington
and *Linlithgow*,
to constitute a Com-
missariat.

And be it Enacted, That the before recited Act, passed in the fourth year of the reign of His present Majesty, in so far as it provides that the Sheriffdoms of *Edinburgh*, *Haddington*, and *Linlithgow*, shall be the Commissariat of *Edinburgh*, be repealed; and that the Commissariat of *Edinburgh* shall comprehend only the Sheriffdom of *Edinburgh*; and it is hereby provided, that the Sheriffdoms of *Haddington* and *Linlithgow* shall each constitute a Commissariat, and that the whole other provisions of the said recited Act shall apply to the said Sheriffdoms of *Haddington* and *Linlithgow* in the same way in all respects as the same apply to the other Sheriffdoms of *Scotland* where the Sheriff is Commissary.

CLAUSE (I.)

Jurisdiction
of Commis-
sary Court
of *Edinburgh*
restricted.

And be it Enacted, That the Commissary Court of *Edinburgh* shall possess and exercise the same and no other jurisdiction in the Sheriffdom of *Edinburgh*, than that possessed and exercised by Sheriffs being Commissaries in other Sheriffdoms of *Scotland*; and that any jurisdiction of a more extensive nature heretofore possessed or exercised by the Commissary Court of *Edinburgh*, shall entirely cease: And it is further provided, That Actions of Aliment may be raised and pursued before the Court of the Sheriff.

Consistorial
Actions to
be instituted
in the Court
of Session.

And be it Enacted, That all actions of declarator of marriage and of nullity of marriage, and all actions of declarator of legitimacy and of bastardy, and all actions of divorce, and all actions of separation *a mensa et thoro*, shall be competent to be brought and insisted on only before the Court of Session.

Provision as
to transmis-
sion of Con-
sistorial
Processes.

And be it Enacted, That all such actions which shall be depending before such court at the commencement of this Act, shall be transmitted to the Lord President of the Court of Session: Provided always, That where a proof shall have been allowed by the said Court of the Commissaries previously to the commencement of this Act, such proof shall be concluded before such action shall be transmitted as herein directed. 5

CLAUSE (K).
Regulation
as to the same.

And be it Enacted, That the Lord President shall remit all causes so transmitted, to such Lord Ordinaries as he may think fit, for preparation and judgment; and the judgments of the Lords Ordinary in these and in all other actions of the same description instituted in the Court of Session, shall be subject to the review of the division of the court to which the Lord Ordinary may belong, in the same way as in other civil causes. 10

Regulations
in regard to
the same.

And be it Enacted, That the Lord Ordinary shall in all actions of divorce administer the usual oath of calumny to the pursuer; and no decree or judgment in favour of the pursuer shall be pronounced in any of the consistorial actions hereinbefore enumerated, whether appearance shall or shall not be made for the defender, until the grounds of action shall be substantiated by sufficient evidence. 15 20

Provision as
to the same.

And be it Enacted, That such causes shall not be declared generally appropriate to trial by Jury, but it shall be competent to either division of the Court of Session, or to a Lord Ordinary after advising with the division of the court to which he belongs, to direct that any such cause, or any issue or issues of fact connected therewith, be tried by Jury; and it is hereby provided, that in the swearing of witnesses in the trial of Commissary causes, the same oath shall be administered that is in use in Courts of Justice in *Scotland*. 25

Regulations
as to Proofs.

And be it Enacted, That when a proof in any such cause shall be directed to be taken by commission, the remit to take such proof shall be made to the Commissary Court of *Edinburgh*; and it is hereby provided, that in all causes where there shall be no appearance for the defender, and in such other cases as may be deemed expedient, the said Court shall along with the proof so taken, transmit a report setting forth any circumstances or considerations which may be deemed material for the information of the Court of Session, and in particular how far there is reason to consider such action to be in any degree of a collusive nature, or the contrary. 30 35

CLAUSE (L).
Provision in
regard to
Agency Fees,
&c. in Con-
sistorial

And be it Enacted, That for conducting such consistorial causes in the Court of Session, no agent shall be entitled to a higher rate of charge for any part of such duty, than such as would have been legally exigible

exigible in the Commissary Court of *Edinburgh*, for conducting similar business before that Court at the date of the passing of this Act; and no fee or demand on account of the fee-fund of the Court of Session shall be due or exigible on account of any such cause, until an
 5 extract of the decree shall be required; and it is hereby provided, that the payment to the fee-fund which may be then demanded on account of the proceedings in such cause, including all allowances to clerks, auditor and officers of every description in the Court of Session, shall in no case exceed in whole the sum which would have been
 10 legally due to the clerk of the Commissaries Court of *Edinburgh* if such cause had been conducted in that Court previously to the passing of this Act.

And be it Enacted, That as vacancies occur, the offices of Three of the Judges of the Court of the Commissaries of *Edinburgh* shall be
 15 and the same are hereby abolished; and that the said Court shall ultimately consist of one Judge; and it is hereby provided, that the said Court shall take all proofs in questions of a consistorial nature, which shall be remitted to it as aforesaid by the Court of Session, and no Judge of said Court shall receive any additional remuneration on that
 20 account.

Offices of
Three of the
Commissaries
abolished.

And be it Enacted, That as vacancies shall occur in the office of Baron of the Court of Exchequer in *Scotland*, the same shall not be filled up until the number of such Barons shall be reduced, so that the
 said Court shall consist only of the Lord Chief Baron and of one Baron
 25 of Exchequer; and it is hereby provided, that it shall be competent to these Judges, and to either of them in the absence of the other, to exercise the whole jurisdiction and powers of the Court of Exchequer: Provided always, That after the number of the Judges shall be so reduced, it shall be competent to the said Court, when deemed expedient, to re-
 30 quire of the Lord President of the Court of Session, that one Judge of that Court shall be directed to attend the Court of Exchequer; and on receiving such requisition, one of the ordinary Judges of the Court of Session shall attend the said Court of Exchequer, and shall have voice and vote in all matters then to be brought before the said
 35 Court, in the same way in all respects as if such Judge were a Baron of the Court of Exchequer.

Two Barons
of the Court
of Exchequer
to be reduced.

And be it Enacted, That the whole provisions of this Act, unless where otherwise herein specially provided, shall commence and take effect from and after the Fifth day of October next after the passing of this Act.

Commence-
ment of Act.

SCHEDULE to which this Act refers.

RETURN of the Number of CAUSES instituted and decided in the Court of Session in *Scotland*, between the 1st day of January 18 , and the 1st day of January 18 ; shewing the Number of Causes ready for Judgment, but not disposed of at the last of these Dates.

OUTER HOUSE.

| NAMES of LORDS ORDINARY. | Number of Causes for the first time inrolled before each Lord Ordinary. | Number of Decrees in Absence. | Number of Final Judgments pronounced in litigated Causes. | Number of Causes ready for Debate, but not heard ; with the Date when the first of these Causes was first inrolled in the Debate-roll. | Number of Causes at Avisandum. | OBSERVATIONS. |
|--------------------------------|---|----------------------------------|--|---|-----------------------------------|---------------|
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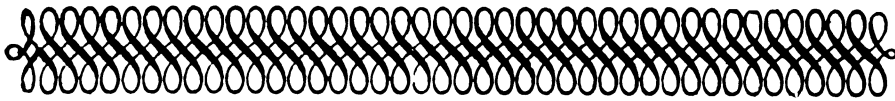
INNER HOUSE.

| — | Number of reclaiming Notes presented against Judgment of Lords Or- dinary, in the course of the above year. | Number of incidental and sum- mary Applications presented during the same period, dis- tinguishing those which have passed as matters of Form, from such as have been fol- lowed by Litigation. | Number of Final Judg- ments pronounced in litigated Causes, without the inter- vention of a Jury. | Number of Causes tried by Jury. | Number of Causes ready for Judg- ment on hearing Counsel or otherwise ; with the Date when the first of such Causes was so ready, and distinguishing those to be tried by Jury from such as are not to be so tried. | OBSERVATIONS. |
|-------------------|---|---|---|---------------------------------------|---|---------------|
| First Division - | | | | | | |
| Second Division - | | | | | | |

A. B. Lord President.

11 June 1830.

211



A

B I L L

[AS AMENDED ON RE-COMMITMENT]

For uniting the Benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments of *Scotland*.

N. B.—*The Clauses marked (A. to L.) were added by the Committee, and the Clauses marked (M. to O.) on the Re-commitment.*

WH ~~H E R E A S~~ an Act was passed in the fifty-fifth year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act to facilitate the Administration of Justice in that part of the United Kingdom called *Scotland*, by the extending Trial by Jury to Civil Causes;" by which Act certain Commissioners were appointed for the trial of such causes, and certain regulations made in regard to such trials: Preamble.
55 G. 3. c. 42.

And whereas another Act was passed in the fifty-ninth year of the reign of his said late Majesty, intituled, "An Act to amend an Act passed in the fifty-fifth year of the reign of His present MAJESTY, intituled, 'An Act to facilitate the Administration of Justice in that part of the United Kingdom called *Scotland*, by the extending Trial by Jury to Civil Causes:'" 59 G. 3. c. 35.

And whereas another Act was passed in the sixth year of the reign of His present Majesty, intituled, "An Act for the better regulating of the Forms of Process in the Courts of Law in *Scotland*;" by which last Act certain provisions were made relative to the Constitution of the Jury Court, and which provisions are declared to continue and be in force until the Thirtieth day of June in the year One thousand eight hundred and thirty, and from thence to the end of the next Session of Parliament; and it is further provided by the said last recited Act, 6 G. 4. c. 120.

536. A that

that it should be lawful for His Majesty to appoint such persons as He should think fit, to make all inquiries as they should be directed by instructions from His Majesty, into the forms of proceeding in Trials of Civil Causes by Jury in *Scotland*, and to report whether these forms may be improved, and at what time and in what manner the union of the benefit of Jury Trial in Civil Causes with the jurisdiction of the Court of Session may be best accomplished : 5

And whereas pursuant to the said last recited Act His Majesty did, by an instrument under His Royal Sign Manual, appoint certain persons to make the inquiries set forth in the said last recited Act, as more particularly specified in instructions annexed to the said instrument under the Royal Sign Manual : 10

And whereas the said Commissioners so appointed have made a Report to His Majesty upon the subject-matters into which they were appointed to inquire ; which Report has been laid before both Houses of Parliament : 15

And whereas it is expedient that the said recited Acts should be altered and amended in certain particulars, and that provision should be made for uniting the benefits of Jury Trial in Civil Causes with the ordinary jurisdiction of the Court of Session in *Scotland* ; and that in so doing, advantage should be taken of the knowledge and experience of the present Lord Chief Commissioner, and of the other Lords Commissioners of the Jury Court : 20

And whereas it is also expedient that certain other alterations and reductions should take place in the Judicial Establishments of *Scotland* ; 25

May it therefore please Your MAJESTY,

That it may be Enacted ; ~~And be it Enacted~~, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from 30 and after the Fifth day of October next after the passing of this Act, the jurisdiction for Trial by Jury in Civil Causes shall be united with and shall form part of the ordinary administration of justice in the Court of Session in *Scotland* ; and the trial of causes by jury shall take place in the Court of Session as hereinafter directed : Provided always, That 35 the Jury Court and the jurisdiction thereof shall continue as now constituted until the said date, after which it shall cease and determine ; but without prejudice to the present Lord Chief Commissioner and the other Lords Commissioners of the Jury Court respectively continuing to perform the duties hereinafter directed.

From Oct. 5, 1830, Union of Trial by Jury with the ordinary Administration of Justice in the Court of Session, to take place.

And

And be it Enacted, That from and after such union, all causes and issues, which if they had occurred before the passing of this Act, must by law have been tried by jury in the Jury Court, shall be tried by jury in the Court of Session ; and such causes shall be prepared for trial by the
 5 Lords Ordinary respectively before whom such causes shall first come :
 Provided always, That any such Lord Ordinary may have recourse for advice and assistance in such preparation, and in all incidental matters preparatory to trial, to the Lord President of the division to which such Lord Ordinary may belong, or to the said Lord Chief
 10 Commissioner of the Jury Court.

Causes how
to be prepared
for Trial.

And be it Enacted, That from and after the period when such union shall take place as aforesaid, the Lords President of the two divisions shall respectively try by jury all issues arising out of causes originating in these divisions respectively when such trials take place at *Edinburgh* ;
 15 and may otherwise respectively discharge all duties previously assigned to the Lord Chief Commissioner, in so far as may regard such causes : Provided always, That it shall continue to be competent to the said Lord Chief Commissioner to perform all duties relative to trial of civil causes by jury which it has been heretofore lawful for him
 20 to discharge ; and farther, that for the space of Three years from and after the time when such union shall take place, there shall be present and form part of the Court, upon all occasions when either of the Lords President of the two divisions of the Court of Session shall respectively try by jury any issue arising out of a civil cause, either the Lord Chief
 25 Commissioner of the Jury Court, or one of the Judges of the Court of Session, who at the time of such union shall have held the office of one of the Lords Commissioners of the Jury Court ; and provided farther, that in the event of the indisposition or necessary absence of either of the said Lords President, such issues shall, during the foresaid space of
 30 Three years, be tried either by the said Lord Chief Commissioner along with one of the Judges of the Court of Session, or by at least two Judges of the Court of Session, whereof there shall be one of the said Judges of the Jury Court ; and that from and after the expiration of that period, such issues shall in the said events be tried by any
 35 other Judge or Judges of the division of the Court before which the cause may depend.

Lords President to try all Jury Causes originating in their respective Divisions.

Provision in case of absence of Lord President.

And be it Enacted, That it shall and may be lawful for either party to apply to the division of the Court to which a cause belongs, that the issue or issues shall be tried before such division ; and such division may
 40 or may not, in its discretion, order such cause to be so tried.

Parties may apply for Trial of Issues to the Division to which the cause belongs.

And be it further Enacted, That the Lord President of each division of the Court shall have power, and he is hereby authorized and empowered, to order and direct that any issue or issues shall be tried
 536. before

Lord President may direct Issues to be tried before his Division of the Court.

before the division of the Court to which he belongs : Provided always, That in trials before a division of the Court, the Lord Ordinary in the cause, unless prevented by indisposition or other necessary cause of absence, shall be one of the Judges of such court ; and further, that for the space of Three years as aforesaid, either the Lord Chief Commissioner or one of the foresaid Judges of the Jury Court shall be one of the Court on occasion of such trials. 5

Proceedings in Error to be taken before the Division to which the cause belongs.

And be it Enacted, That all proceedings for the correction of errors or injustice alleged to have been committed in the trial of a cause, and all questions reserved for decision after trial, and all questions relating to the application of the verdict, or the rights and interests arising therefrom, and all questions of expenses, shall proceed before the division of the Court to which the cause belongs : Provided always, That such division shall have power to order a hearing before the whole Court of Session, or to require the opinions of the other Judges, on such points or questions as they may deem proper. 10 15

The present Lord Chief Commissioner to sit and vote as a Lord of Session in Jury Court cases.

And be it Enacted, That the said Lord Chief Commissioner shall be empowered and have right to sit and vote in both divisions of the Court as a Judge of the Court of Session, in the before-recited and all other proceedings touching any such cause, both before and after verdict, and shall be entitled to rank immediately after the Lord Justice Clerk. 20

Trials by Jury may proceed when the Division is not sitting.

And be it Enacted, That Trials by Jury may proceed upon every Monday, and at all such times, as well during Session as in the vacation, as the division of the Court before which the cause stands inrolled shall appoint ; and all causes remaining untried and entered as ready for trial, at the termination of the winter or summer sessions, or at the commencement of the Christmas recess, shall be tried at sittings of the Court to be held immediately after these periods respectively, excepting only such causes as, on the motion of any party, the Court may think fit to postpone. 25 30

Provision for extending the Winter and Summer Sessions.

And be it Enacted, That it shall and may be lawful for His Majesty, His heirs and successors, with consent of His privy council, and He is hereby empowered, if He shall think fit, to order and direct that the winter and summer sessions of the Court of Session, or either of them, shall be extended, and to specify the time or times of such extension, and the precise duration thereof, and to direct that such extension shall apply either to the whole Court of Session, or exclusively to the permanent Lords Ordinary : Provided always, That such extension shall not on the whole exceed the space of One calendar month in the course of the year ; and that it shall in like manner be lawful for His Majesty thereafter to direct that such extension be diminished as to duration, and altered or varied as to the time or times when the same 35 40

same shall take place, and that the sessions shall in like manner be again extended as occasion may require, and the said Court, or the permanent Lords Ordinary shall sit at the time or times and during the period or periods which may be so ordered by His Majesty ; and
 5 for the information of His Majesty in this behalf, the Lord President of the Court of Session is hereby required, on or before the Fifteenth day of January in every year, to transmit to one of His Majesty's principal Secretaries of State a return, according to the form prescribed in the Schedule hereunto annexed ; which Return shall be laid before
 10 both Houses of Parliament.

And be it Enacted, That all causes or issues appointed to be tried before any Circuit Court, shall and may be so tried before any one or more of the Judges of the Court of Justiciary when upon circuit ; and at all trials before any circuit court the jury may either be taken from the lists
 15 prepared for the trial of criminal offences, or from a list of jurymen to be summoned in the manner heretofore observed in trials at circuit by the Jury Court : Provided always, That it shall be competent to either division of the Court of Session to direct any causes or issues to be tried by any other Judge or Judges of the Court of Session
 20 at any circuit town, and for the trial of the same to cause jurymen to be summoned in the manner herein last mentioned.

Issues before any Circuit Court may be tried by Lords of Justiciary on Circuit.

Mode of forming Jury.

And be it Enacted, That the clerks and macers of the Jury Court shall continue to discharge the duties of their respective offices in the Court of Session after such union, as well at *Edinburgh* as on the
 25 circuits ; and that all other inferior offices in the Jury Court shall be and the same are hereby abolished.

Clerks in Jury Court to discharge similar Duties in Court of Session. Services of other Officers to be dispensed with.

And be it Enacted, That the two vacancies which shall next occur in the office of principal clerk of session, as also in the office of depute clerk of session, shall not be supplied ; and that in like manner the vacancies in the offices of the other clerks belonging to the Court of
 30 Session shall not be supplied until the total number of such clerks, including those connected with proceedings in trial by jury, shall not exceed the number of clerks exclusively belonging to the Court of Session at the passing of this Act ; and it shall be lawful for the said Court
 35 from time to time as said vacancies occur, to make such regulations as may be necessary for duly apportioning the duty among the remaining clerks ; and it is provided that as vacancies shall occur in the office of macer, the number of macers shall be reduced, so that they shall not exceed the number of macers officiating exclusively in the Court of
 40 Session at the passing of this Act.

As to reduction of Clerks, &c. in the Court of Session.

And be it Enacted, That the appointment of depute clerks of session shall be vested in His Majesty ; and it is hereby provided, that during
 536. B the

Appointment of Depute Clerks to be in His Majesty.

the necessary absence of any principal clerk of session, it shall be competent for any depute clerk of session to discharge the duties of such principal clerk.

Certain causes to be exempted from the Fee-Fund and the Provisions of above recited Acts to remain in force, where not inconsistent with this Act.

And be it Enacted, That no payment on account of the fee-fund of the Court of Session, nor any fee or demand by any clerk or officer of that court shall be exigible in respect of any step or proceeding in any cause which might not have been exigible if such cause had been brought into the Jury Court previously to the passing of this Act; and it is further enacted, that all the provisions of the foresaid recited Acts now in force, in so far as not inconsistent with this Act, and all rules and regulations in observance in the Jury Court at the time of the union of jury trial in civil causes with the administration of justice in the Court of Session, shall continue and be observed as provisions, rules and regulations applicable to the Court of Session after such union, until the same shall be altered by competent authority; and it is hereby provided, that the said Court of Session shall have full power and authority, by Acts of Sederunt, to make all regulations for duly adapting the forms previously observed in the Jury Court to the proceedings in the Court of Session, and afterwards to alter and amend such regulations when necessary: Provided always, That such regulations be not inconsistent with the provisions of this or any other Act of Parliament now in force; and that all Acts of Sederunt authorized by this Act to be made, shall be laid before Parliament, if sitting, within Fifteen days from the respective dates thereof, and if Parliament be not sitting, within Fifteen days from and after the next meeting of Parliament.

Such Regulations to be laid before Parliament.

No Successors to be appointed to the present Jury Court Judges.

And be it Enacted, That in the event of the death or resignation of the said Lord Chief Commissioner, or of any of the other Lords Commissioners of the Jury Court, no successor shall be appointed to any such Judge or Judges as Commissioner of the Jury Court.

Office of Lord Justice General to devolve on Lord President.

And be it Enacted, That from and after the termination of the present existing interest in the office of Lord Justice General, that office shall devolve upon and remain united with the office of Lord President of the Court of Session, who shall perform the duties thereof as presiding Judge in the Court of Justiciary; and it is hereby provided, that the salary attached to the office of Lord Justice General shall thereupon cease, and that the appointment of macers of the said Court shall be vested in His Majesty.

Lords Ordinary to be reduced to Five, and the Court to Thirteen.

And be it Enacted, That when vacancies shall occur among the permanent Lords Ordinary of the Court of Session, whether by death, resignation, or removal into one of the divisions of the Inner House, such vacancies shall not be filled up until the number of permanent Lords Ordinary shall be reduced to Five, so that the total number of Judges composing

composing the Court of Session, including the Lord President and the Lord Justice Clerk, shall be limited to Thirteen.

5 AND whereas all Maritime causes may now be brought by review before the Court of Session, and many causes formerly heard and determined by the High Court of Admiralty are now remitted to the Jury Court: AND whereas the Court of Justiciary holds a cumulative jurisdiction with the High Court of Admiralty as to all crimes competent to be tried by the High Court of Admiralty: AND whereas it has become unnecessary and inexpedient to maintain any separate court for Maritime or Admiralty causes; BE it therefore Enacted, That the High Court of Admiralty be abolished, and that hereafter the Court of Session shall hold and exercise original jurisdiction in all maritime civil causes and proceedings of the same nature and extent in all respects as that held and exercised in regard to such causes by the High Court of Admiralty before 10 the passing of this Act; and all applications of a summary nature connected with such causes may be made to the Lord Ordinary on the bills: Provided always, That all such causes not exceeding the value of Twenty-five pounds sterling, shall be instituted and carried on in the first instance before an inferior court, in the manner directed and with the exceptions 15 specified in an Act of the Parliament of *Scotland*, passed in the year sixteen hundred and seventy-two, intituled, "An Act concerning the Regulation of the Judicatories."

CLAUSE (A.)

Transference of Admiralty Jurisdiction.

6 Geo. 4.
c. 120. § 29.

9 Geo. 4.
c. 29. § 16.

25 And be it Enacted, That the Sheriffs of *Scotland* and their substitutes shall within their respective sheriffdoms, including the navigable rivers, ports, harbours, creeks, shores and anchoring grounds in or adjoining to such sheriffdoms, hold and exercise original jurisdiction in all maritime causes, and proceedings civil and criminal, including such as may apply to persons residing furth of *Scotland*, of the same nature as that heretofore held and exercised by the High Court of Admiralty.

CLAUSE (B.)

Sheriffs to have jurisdiction in Maritime causes.

30 And be it Enacted, That the finding of caution and using of arrestment heretofore observed in the High Court of Admiralty, and all regulations relative thereto, may be enforced in the foresaid Courts respectively; and maritime causes may be heard and determined by the Sheriff according to the same modes and rules which are applicable in the Sheriff Court to causes not maritime, including the mode prescribed in 35 an Act passed in the tenth year of the reign of His present Majesty, intituled, "An Act for the more effectual recovery of Small Debts, "and for diminishing the Expenses of Litigation in causes of small "amount, in the Sheriff Courts in *Scotland*;" and the sentences, interlocutors and decrees pronounced by Sheriffs in maritime causes shall be 40 subject to review by the Courts of Session and Justiciary respectively, in the same way and manner in which sentences, interlocutors and decrees of Sheriffs in similar causes not maritime are subject to review at

CLAUSE (C.)

Maritime causes to be tried in same manner as other causes.

at present, and not otherwise : Provided always, That it shall not be competent to the Sheriff to try any crime committed on the seas, of a nature which it would not be competent for that Judge to try if the crime had been committed on land.

Provision
when Coun-
ties are sepa-
rated by
Water.

And be it Enacted, That where counties are separated from each other by a river, or by a firth or estuary, the Sheriffs of the counties adjoining to the sides thereof shall have a cumulative jurisdiction over the whole intervening space so occupied by water : Provided always, That the pursuer of all civil causes shall, where such cumulative jurisdiction applies, bring the cause before the Sheriff of that county within which the defender may reside ; and it is provided, that where there are several defenders in the same cause, residing in different counties, the same rules shall apply in regard to the citation of the whole of such defenders before the same Sheriff Court, which are observed in similar circumstances with respect to causes not maritime ; and it is provided farther, that Sheriffs shall respectively have power to remit such causes from their own court to that of another Sheriff *ob contingentiam*, or for other sufficient cause.

CLAUSE (D.)
Office of
Judge Admi-
ral abolished.

Provisions for
depending
Actions.

And be it Enacted, That from and after the commencement of this Act, the office of the Judge Admiral shall be and the same is hereby abolished, as also the offices of all clerks and officers belonging to that court ; and it is hereby provided, that all actions and proceedings which shall be depending on the said Fifth day of October before the High Court of Admiralty, shall be transferred to the sheriff of any county wherein such action and proceeding might have originated if this Act had been passed previously to the commencement of such actions or proceedings, and the same shall thereupon be heard and determined in the same manner as if they had been brought before such sheriff in the first instance ; and as soon as conveniently may be after the said fifth day of October, the processes in all such depending actions shall be transmitted accordingly to such sheriff by the clerk of the High Court of Admiralty, together with an inventory made by the said clerk, to the accuracy whereof he shall make oath if required : Provided always, That when the parties to any such cause shall, previously to such transmission, give in a joint note to the said clerk, setting forth their wish that such cause should proceed in the Court of Session instead of being so transferred to the sheriff, and shall therein specify the Lord Ordinary by whom they are desirous that such cause should be decided, the clerk of the High Court of Admiralty shall thereupon transmit the process, together with the said note, to one of the principal clerks of session, and such cause shall be enrolled before such Lord Ordinary, and shall thereafter be heard and determined in the same way as if such cause had been instituted in the Court of Session in terms of this Act.

And

And be it Enacted, That as soon as conveniently may be after the Fifth day of October next after the passing of this Act, all other processes, records, and warrants of decrees, together with an inventory thereof made by the Admiralty clerk, which he is hereby required to do, and to make oath to the accuracy thereof if required, shall be transmitted to the General Register House at *Edinburgh*.

CLAUSE (E.)
Provision as
to other Pro-
cesses.

And be it Enacted, That the sheriff clerk of the several counties of *Scotland* shall respectively act as clerk to the Sheriff in maritime causes: Provided always, That neither that officer, nor any other person appointed to any office, or acquiring right to any fees or emoluments in virtue of the provisions of this Act, shall be entitled to prefer any claim to compensation in consequence of the subsequent abolition of such office or fees, or of any alteration therein.

CLAUSE (F.)
Sheriff Clerks
to act as
Clerks to She-
riffs in Mari-
time causes.

And be it Enacted, That all inferior Admiralty jurisdiction, not dependent upon the High Court of Admiralty, shall continue as heretofore, but the judgments of such Courts shall be subject to review solely in the Courts of Session and Justiciary respectively.

CLAUSE (G.)
As to inferior
Admiralty
Jurisdiction.

And be it Enacted, That so much of an Act passed in the fourth year of the reign of His present Majesty, intituled, "An Act for the regulation of the Court of the Commissaries of *Edinburgh*, and for altering and regulating the Jurisdiction of inferior Commissaries in *Scotland*," as provides that the Sheriffdoms of *Edinburgh*, *Haddington*, and *Linlithgow*, shall be the Commissariat of *Edinburgh*, be repealed; and that the Commissariat of *Edinburgh* shall comprehend only the Sheriffdom of *Edinburgh*; and it is hereby provided, that the Sheriffdoms of *Haddington* and *Linlithgow* shall each constitute a Commissariat, and that the whole other provisions of the said recited Act shall apply to the said Sheriffdoms of *Haddington* and *Linlithgow* in the same way in all respects as the same apply to the other Sheriffdoms of *Scotland* where the Sheriff is Commissary.

CLAUSE (H.)
Each of the
Sheriffdoms
of *Edinburgh*,
Haddington
and *Linlith-*
gow, to con-
stitute a Com-
missariat.

And be it Enacted, That the Commissary Court of *Edinburgh* shall possess and exercise the same and no other jurisdiction in the Sheriffdom of *Edinburgh*, than that possessed and exercised by Sheriffs being Commissaries in other Sheriffdoms of *Scotland*; and that any jurisdiction of a more extensive nature heretofore possessed or exercised by the Commissary Court of *Edinburgh*, shall entirely cease, save and except such as may regard the granting of confirmation of testaments of persons dying furth of *Scotland* having personal property in *Scotland*, which jurisdiction is hereby reserved to the said Court; and it is further enacted, that actions of aliment may be instituted, heard and determined in any Sheriff Court of *Scotland*.

CLAUSE (I.)
Jurisdiction
of Commis-
sary Court
of *Edinburgh*
restricted.

Consistorial
Actions to
be instituted
in the Court
of Session.

. And be it Enacted, That all actions of declarator of marriage and of nullity of marriage, and all actions of declarator of legitimacy and of bastardy, and all actions of divorce, and all actions of separation *a mensa et thoro*, shall be competent to be brought and insisted on only before the Court of Session.

5

Provision as
to transmis-
sion of Con-
sistorial
Processes.

And be it Enacted, That all such actions which shall be depending before such court at the commencement of this Act, shall be transmitted to the Lord President of the Court of Session: Provided always, That where a proof shall have been allowed by the said Court of the Commissaries previously to the commencement of this Act, such proof shall be concluded before such action shall be transmitted as herein directed.

10

CLAUSE (K).
Regulation
as to the same.

And be it Enacted, That the Lord President shall remit all causes so transmitted, to such Lord Ordinaries as he may think fit, for preparation and judgment; and the judgments of the Lords Ordinary in these and in all other actions of the same description instituted in the Court of Session, shall be subject to the review of the division of the court to which the Lord Ordinary may belong, in the same way as in other civil causes.

15

Regulations
in regard to
the same.

And be it Enacted, That the Lord Ordinary shall in all actions of divorce administer the usual oath of calumny to the pursuer; and no decree or judgment in favour of the pursuer shall be pronounced in any of the consistorial actions hereinbefore enumerated, whether appearance shall or shall not be made for the defender, until the grounds of action shall be substantiated by sufficient evidence.

25

Provision as
to the same.

And be it Enacted, That such causes shall not be declared generally appropriate to trial by Jury, but it shall be competent to either division of the Court of Session, or to a Lord Ordinary after advising with the division of the court to which he belongs, to direct that any such cause, or any issue or issues of fact connected therewith, be tried by Jury; and it is hereby provided, that in the swearing of witnesses in consistorial causes, the same oath shall be administered that is in use in the other Courts of Justice in *Scotland*.

30

Regulations
as to Proofs

And be it Enacted, That when a proof in any such cause shall be directed to be taken by commission, the remit to take such proof shall be made to the Commissary Court of *Edinburgh*, which Court shall take such proofs accordingly, and no Judge thereof shall receive any additional remuneration on that account; and it is hereby provided, that in all causes where there shall be no appearance for the defender, and in such other cases as may be deemed expedient, the said Court shall along with the proof so taken, transmit a report setting

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setting forth any circumstances or considerations which may be deemed material for the information of the Court of Session, and in particular how far there is reason to consider such action to be in any degree of a collusive nature, or the contrary.

- 5 And be it Enacted, That summonses in maritime and consistorial causes instituted in the Court of Session shall be signed by one of the principal or depute clerks of session, and it shall not be necessary that any such summons should pass the signet, or require any concurrence for the public interest; and it is provided, that for conducting
 10 such causes in the Court of Session, no agent shall be entitled to a higher rate of charge for any part of such duty, than such as would have been legally exigible for the same duty in the High Court of Admiralty or in the Court of the Commissaries of *Edinburgh* respectively before the passing of this Act; and no fee or demand on account of the fee-fund
 15 of the Court of Session, or on account of any clerk or officer in that court, shall be due or exigible in any such cause.

CLAUSE (L).
 Provision in regard to Agency Fees, &c.

- And be it Enacted, That when vacancies occur in the offices of the Judges of the Commissary Court of *Edinburgh*, such vacancies shall not be filled up, and as soon as vacancies shall occur in the whole of
 20 such offices, the said court shall be entirely abolished, and the whole powers and jurisdiction, as then competent to the said court, shall thereupon be transferred to the Sheriff of the County of *Edinburgh*, who shall exercise such jurisdiction in all respects, and the provisions of the before-recited Act passed in the Fourth year of the reign of His
 25 present Majesty shall apply to the sheriffdom of *Edinburgh* in the same way as such provisions apply to the other sheriffdoms of *Scotland*; and it is provided, that when, in consequence of vacancies in the said offices, the number of the Commissaries of *Edinburgh* shall be reduced to one, it shall be lawful for His Majesty's Principal Secretary of State
 30 for the Home Department to appoint from time to time such number of persons, being sheriffs depute of counties, as he shall think fit, to take proofs in consistorial causes, which duty the persons so appointed shall perform, but without prejudice to the said remaining Commissary also performing the same if he shall think fit; and the said persons
 35 shall not receive any remuneration on account of such duty from any party in any such cause.

Offices of the Commissaries abolished.

- And be it Enacted, That as vacancies shall occur in the office of Baron of the Court of Exchequer in *Scotland*, the same shall not be filled up until the number of such Barons shall be reduced, so that the
 40 said Court shall consist only of the Lord Chief Baron and of one Baron of Exchequer; and it is hereby provided, that it shall be competent to these Judges, and to either of them in the absence of the other, to exercise the whole jurisdiction and powers of the Court of Exchequer: Pro-
 536. vided

Two Barons of the Court of Exchequer to be reduced.

vided always, That after the number of the Judges shall be so reduced, it shall be competent to the said Court, when deemed expedient, to require of the Lord President of the Court of Session, that one Judge of that Court shall be directed to attend the Court of Exchequer; and on receiving such requisition, one of the ordinary Judges of the Court of Session shall attend the said Court of Exchequer, and shall have voice and vote in all matters then to be brought before the said Court, in the same way in all respects as if such Judge were a Baron of the Court of Exchequer. 5

CLAUSE (M.)
Judges of
Jury Court
and Admiralty
to continue
to receive
their Salaries.

And be it Enacted, That the Lord Chief Commissioner and the other Lords Commissioners of the Jury Court, and the Judge of the High Court of Admiralty in *Scotland*, shall, notwithstanding the abolition of these several Courts, continue to receive during their respective lives the salaries payable to them at the time of the passing of this Act. 10

CLAUSE (N.)
Provision as
to Circuit
Expenses.

And be it Enacted, That the several sums, of Seven thousand pounds, Two thousand four hundred pounds, and One thousand two hundred pounds, authorized by the before recited Acts to be annually paid on account of the Jury Court, shall cease, save and except so much thereof as shall be certified by the Lord President of the Court of Session to be requisite to be applied in defraying the expenses attending the circuits of such of the Judges of the Court of Session as are not Judges of the Court of Justiciary, the application of which sum shall be accounted for in the Court of Exchequer in *Scotland*; and it is hereby provided, that the salaries of the Judges clerks and macers, hitherto paid from the foresaid sums, shall be paid by order of the said Court of Exchequer out of the monies charged or made chargeable by the Acts passed in the seventh and tenth years of the reign of her Majesty Queen *Anne*, with the fees, salaries and other charges allowed or to be allowed for keeping up the Courts of Session, Justiciary, or Exchequer, in *Scotland*. 15 20 25 30

CLAUSE (O.)
Provision as
to Compensation
to
Clerks, &c.

And be it Enacted, That it shall and may be lawful for any clerk or other officer holding his office at the passing of this Act, and entitled to compensation for loss to be suffered through the operation and effect of this Act, to make application to the Court of Exchequer in *Scotland*, which Court shall direct intimation thereof to be given to His Majesty's Advocate, in behalf of the public; and thereafter the said Court shall inquire into and consider the circumstances of the case, and shall award to every such person such compensation as the Court shall think such persons entitled to, either by the payment of a gross sum, or by way of annuity, as the Court shall think proper: Provided always, That every order made for such compensation shall set forth the nature of the office, the grounds on which compensation is prayed, and on which the award may be founded; and that a copy of every such order shall 35 40

shall be laid before Parliament within Two calendar months after the commencement of the Session next ensuing after making the same ; and no such decision of the said Court shall be final and conclusive until two calendar months after a copy of the order of such Court for compensation shall have been so laid before Parliament ; and any sum of compensation so to be awarded shall be paid and payable upon the order of the said Court of Exchequer, in such manner and at such time or times as the Court shall direct, out of the foresaid monies charged or made chargeable by the foresaid Acts passed in the seventh and tenth years of the reign of her Majesty Queen *Anne*, and every sum of compensation shall be clear of all taxes and deductions whatsoever.

Orders for Compensation to be laid before Parliament.

And be it Enacted, That the whole provisions of this Act, unless where otherwise herein specially provided, shall commence and take effect from and after the Fifth day of October next after the passing of this Act.

Commencement of Act.

SCHEDULE to which this Act refers.

RETURN of the Number of CAUSES instituted and decided in the Court of Session in *Scotland*, between the 1st day of January 18 ,
and the 1st day of January 18 ; shewing the Number of Causes ready for Judgment, but not disposed of at the last of these Dates.

OUTER HOUSE.

| NAMES of LORDS ORDINARY. | Number of Causes for the first time inrolled before each Lord Ordinary. | Number of Decrees in Absence. | Number of Final Judgments pronounced in litigated Causes. | Number of Causes ready for Debate, but not heard; with the Date when the first of these Causes was first inrolled in the Debate-roll. | Number of Causes at <i>Avisandum</i> . | OBSERVATIONS. |
|--------------------------------|---|----------------------------------|--|--|---|---------------|
| | | | | | | |

INNER HOUSE.

| — | Number of reclaiming Notes presented against Judgment of Lords Or- dinary, in the course of the above year. | Number of incidental and sum- mary Applications presented during the same period, dis- tinguishing those which have passed as matters of Form, from such as have been fol- lowed by Litigation. | Number of Final Judge- ments pronounced in litigated Causes, without the inter- vention of a Jury. | Number of Causes tried by Jury. | Number of Causes ready for Judge- ment on hearing Counsel or otherwise; with the Date when the first of such Causes was so ready, and distinguishing those to be tried by Jury from such as are not to be so tried. | OBSERVATIONS. |
|-------------------|---|---|--|---------------------------------------|---|---------------|
| First Division - | | | | | | |
| Second Division - | | | | | | |

11 Geo. IV.—Sess. 1830.

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B I L L

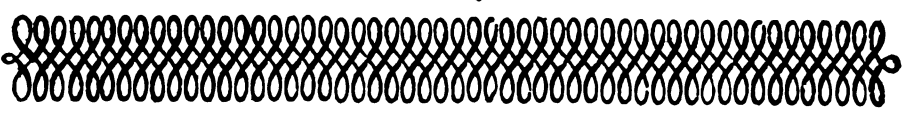
[AS AMENDED ON RE-COMMITMENT]

For uniting the Benefits of Jury Trial in Civil Causes with the ordinary Jurisdiction of the Court of Session, and for making certain other Alterations and Reductions in the Judicial Establishments of *Scotland*.

Ordered, by The House of Commons, to be Printed,

11 June 1830.

12 February 1830.



A

B I L L

To alter and amend the Law relating to Illusory Appointments.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

W~~H~~~~E~~~~R~~~~E~~~~A~~~~S~~ by Deeds, Wills, and other Instruments, Powers Preamble.
are frequently given to appoint Real and Personal Property

amongst several objects, in such manner that none of the objects can be
excluded by the Donee of the power from a Share of such Property :

5 **A**~~N~~~~D~~ whereas Appointments in exercise of such Powers, whereby an un-
substantial, illusory or nominal Share of the Property affected thereby is
appointed to, or left unappointed to devolve upon any one or more of the
objects thereof, are invalid in Equity, although the like Appointments are
good and binding at Law : **A**~~N~~~~D~~ whereas considerable inconvenience hath
10 arisen from the rule of Equity relative to such Appointments, and it is ex-
pedient that such Appointments should be as valid in Equity as at Law ;
B~~E ~~it therefore Enacted~~, by The KING's most Excellent MAJESTY,
by and with the advice and consent of the Lords Spiritual and Temporal,
and Commons, in this present Parliament assembled, and by the Authority~~

15 of the same, **T**~~H~~~~A~~~~T~~ no Appointment which, from and after the *passing*
of this Act, shall be made in exercise of any power or authority to
appoint any Property, Real or Personal, amongst several objects, shall be
invalid or impeached in Equity, on the ground that an unsubstantial,
illusory or nominal share only shall be thereby appointed to, or left
20 unappointed to devolve upon any one or more of the objects of such
power ; but that every such Appointment shall be valid and effectual in
Equity as well as at Law, notwithstanding that any one or more of the
objects shall not thereunder, or in default of such Appointment, take
more than an unsubstantial, illusory, or nominal share of the property sub-
jected to such power.

Illusory Ap-
pointments
shall be valid
in equity as
well as at law.

Act not to affect any Deed which declares the amount of the Share from which no object of the power shall be excluded.

Provided always, and be it further Enacted, That nothing in this Act contained shall prejudice or affect any provision in any deed, will or other instrument, creating any such power as aforesaid, which shall declare the amount of the share or shares from which no object of the power shall be excluded.

5

Act not to give any other force to any Appointment than the same would have had.

Provided also, and be it further Enacted and Declared, That nothing in this Act contained shall be construed deemed or taken, at Law or in Equity, to give any other validity force or effect to any Appointment, than such Appointment would have had if a substantial share of the property affected by the power had been thereby appointed to, or left unappointed to devolve upon any object of such power.

11 GEO. IV.—Sess. 1830.

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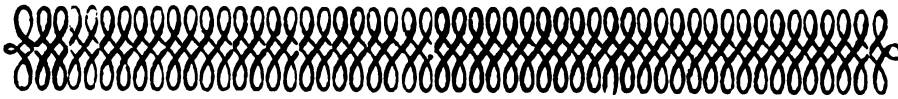
B I L L

To alter and amend the Law relating to
Ilusory Appointments.

Ordered, by The House of Commons, to be Printed.
12 February 1830.

24 February 1830.

239



A

B I L L

[AS AMENDED BY THE COMMITTEE]

For amending the Laws respecting Conveyances and Transfers of Estates and Funds vested in Trustees and Mortgagees, and for enabling Courts of Equity to give effect to their Decrees and Orders in certain cases.

WH ~~H E R E B Y~~ an Act was passed in the sixth year of the reign of His present Majesty, intituled, "An Act for consolidating and amending the Laws relating to Conveyances and Transfers of Estates and Funds vested in Trustees who are Infants, Idiots, Lunatics, or Trustees of unsound mind, or who cannot be compelled or refuse to act; and also the Laws relating to Stocks and Securities belonging to Infants, Idiots, Lunatics, and Persons of unsound mind :"

Preamble :
6 G. 4. c. 74.

And whereas an Act was passed in the Parliament of Ireland in the second year of the reign of King *George* the First, intituled, "An Act to enable Infants who are seised or possessed of Estates in fee, in trust, or by way of mortgage, to make Conveyances of such Estates :"

2 G. 1. (I.) *

And whereas an Act was passed in the Parliament of Ireland in the fifth year of the reign of King *George* the Second, intituled, "An Act to enable Idiots and Lunatics who are seised or possessed of Estates in fee or for lives or terms of years, in trust, or by way of mortgage, to make Conveyances, Surrenders, or Assignments of Estates, and to prevent delay in Suits in Equity, where Trustees are not found :"

5 G. 2. (I.)

74.

A

And

7 G. 4. c. 43.

And whereas an Act was passed in the seventh year of the reign of His present Majesty, intituled, “ An Act to amend the Laws in force “ in Ireland, relating to Conveyances and Transfers of Estates and “ Funds vested in Trustees :”

Former Acts Repealed.

And whereas it is expedient that the provisions of the said Acts should be consolidated and enlarged; ~~BE it therefore Enacted~~, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said recited Acts shall be and the same are hereby Repealed; except so far as the same relate to stock belonging beneficially to infants or lunatics; and also except as to such proceedings, of any description, under the same Acts respectively, as shall have been commenced before the passing of this Act, and which may be proceeded in according to the provisions of the said recited Acts respectively, or according to the provisions of this Act, as shall be thought expedient: Provided always, That the several Acts repealed by the said first recited Act shall not be revived. 5 10 15

Rules for the Interpretation of this Act.

AND inasmuch as in order to avoid unnecessary repetition, certain words are used in this Act as describing subjects, some of which, according to their usual sense, such words would not embrace for the understanding of the sense attached to them in this Act; BE it further Enacted, That the provisions of this Act shall extend to and include the several other estates and persons, matters and things hereinafter mentioned; (that is to say) those relating to land, to any manor, mes- suage, tenement, hereditament or real property, of whatever tenure, and to property of every description transferable otherwise than in books kept by any company or society, or any share thereof or interest therein; those relating to stock, to any fund, annuity or security transferable in books kept by any company or society established or to be established, or to any money payable for the discharge or redemption thereof, or any share or interest therein; those relating to dividends, to interest or other annual produce; those relating to a conveyance, to any fine, recovery, release, surrender, assignment or other assurance, including all acts deeds and things necessary for making and perfecting the same; those relating to a transfer, to any assignment, payment or other disposition; those relating to a lunatic, to any idiot or person of unsound mind, or incapable of managing his affairs; those relating to an heir, to any devisee or other real representative by the common law or by custom or otherwise; and those relating to an executor, to any administrator or other personal representative; unless there be something in the subject or context repugnant to such construction: And whenever this Act, in describing or referring to any Trustee or other person, or any trust, land, conveyance, matter or thing, uses the word importing the singular number or the masculine gender 20 25 30 35 40

gender only, the same shall be understood to include and shall be applied to several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, and several trusts, lands, stocks, conveyances, matters or things respectively, as well as one trust, land, stock, conveyance, matter or thing respectively, unless there be something in the subject or context repugnant to such construction.

And be it further Enacted, That where any person seised or possessed of any land upon any trust, or by way of mortgage, shall be lunatic, it shall be lawful for the committee of the estate of such person, by the direction of the Lord Chancellor of *Great Britain*, being entrusted by virtue of the King's Sign Manual with the care and commitment of the custody of the persons and estates of persons found idiot lunatic or of unsound mind, to convey such land, in the place of such trustee or mortgagee, to such person and in such manner as the said Lord Chancellor shall think proper ; and every such conveyance shall be as effectual as if the trustee or mortgagee, being lunatic, had been of sane mind, memory and understanding, and had made and executed the same.

Lord Chancellor may direct Committees of Trustees or Mortgagees who are Lunatics, to convey.

And be it further Enacted, That where any stock shall be standing in the name of any person who shall be lunatic, as a trustee or executor, alone, or jointly with any other person, or shall continue to be standing in the name of a deceased person whose executor shall be lunatic, or shall be otherwise vested in or transferable by any person who shall be lunatic, for the benefit of some other person, it shall be lawful for the Lord Chancellor, entrusted as aforesaid, to direct the committee of the estate of any such lunatic to transfer or join in transferring such stock to or into the name of such person and in such manner as the said Lord Chancellor shall think proper ; and also to order such person appointed as aforesaid to receive and pay over, or join in receiving and paying over the dividends of such stock in such manner as the said Lord Chancellor shall direct ; and every such transfer, receipt and payment shall be as effectual as if the person being lunatic had been of sane mind, memory and understanding, and had transferred, received and paid, or joined in transferring, receiving and paying such stock or dividends.

Lord Chancellor, &c. may direct the Committee or other person to transfer Stocks or Funds standing in the name of a Lunatic Trustee, and to receive the Dividends.

And be it further Enacted, That where any such person as aforesaid, being lunatic, shall not have been found such by inquisition, it shall be lawful for the Lord Chancellor, entrusted as aforesaid, to direct any person whom the said Lord Chancellor may think proper to appoint for that purpose, in the place of such last-mentioned lunatic, to convey or join in conveying such land, or to transfer or join in transferring such stock, and receive and pay over the dividends thereof, as hereinbefore is mentioned ; and every such conveyance, transfer, receipt or

Lord Chancellor, before Inquisition, may appoint a person to convey or transfer.

payment shall be as effectual as if the said person, being lunatic, had been of sane mind, memory and understanding, and had made done or executed the same; but where any sum of money shall be payable to such lunatic, no such last-mentioned order shall be made if such sum of money shall exceed Seven hundred pounds; and where any sum not exceeding Seven hundred pounds shall be payable to such lunatic, and any such order shall be made, the Lord Chancellor, entrusted as aforesaid, shall direct to whom and in what manner the money so payable shall be paid; and every payment made in pursuance of such direction shall effectually discharge the person paying the same from the money which he shall so pay. 5 10

Infant Trustees or Mortgagees empowered to convey by the direction of the Court of Chancery.

And be it further Enacted, That where any person seised or possessed of any land upon any trust, or by way of mortgage, shall be under the age of twenty-one years, it shall be lawful for such infant, by the direction of the Court of Chancery, to convey the same to such person and in such manner as the said Court shall think proper; and every such conveyance shall be as effectual as if the infant trustee or mortgagee had been, at the time of making or executing the same, of the age of twenty-one years. 15

Infant Trustees or Mortgagees of land within the jurisdiction of the Courts of Lancaster, Chester, Durham and Wales, empowered to convey by the direction of those Courts.

And be it further Enacted, That where any person seised or possessed upon any trust, or by way of mortgage, of any land situated within the duchy of *Lancaster*, or the counties palatine of *Chester*, *Lancaster* and *Durham* respectively, or the Principality of *Wales*, shall be under the age of twenty-one years, it shall be lawful for such infant, by the direction of the Court of the Duchy Chamber of *Lancaster*, the Court of Exchequer in the county palatine of *Chester*, the Court of Chancery in the county palatine of *Lancaster*, the Court of Chancery in the county palatine of *Durham*, and the several Courts of Great Session in *Wales* respectively, as to premises within the jurisdiction of the same courts respectively, to convey such land to such person and in such manner as the said Courts respectively shall think proper, in like manner as such infant is hereinbefore empowered to convey the same by the direction of the Court of Chancery. 20 25 30

When Trustees of real estates are out of the jurisdiction, or it is uncertain whether they be alive, or who may be the heir, the Court of Chancery may appoint a person to convey.

And be it further Enacted, That where any person seised of any land upon any trust shall be out of the jurisdiction of, or not amenable to the process of the Court of Chancery, or it shall be uncertain, where there were several trustees, which of them was the survivor, or it shall be uncertain whether the trustee last known to have been seised as aforesaid be living or dead, or, if known to be dead, it shall not be known who is his heir; or if any trustee seised as aforesaid, or the heir of any such trustee, shall neglect or refuse to convey such land for the space of Twenty-eight days next after a proper deed for making such conveyance shall have been tendered for his execution by or by an agent duly authorized 35 40

authorized by any person entitled to require the same, then and in every or any such case it shall be lawful for the said Court of Chancery to direct any person whom such court may think proper to appoint for that purpose in the place of the trustee or heir, to convey such land to such person and in such manner as the said court shall think proper; and every such conveyance shall be as effectual as if the trustees seised as aforesaid or his heir had made and executed the same.

And be it further Enacted, That where any person possessed of any land for any term of years upon any trust, shall be out of the jurisdiction of, or not amenable to the process of the Court of Chancery, or it shall be uncertain whether the trustee last known to have been possessed as aforesaid be living or dead, or if any trustee possessed as aforesaid, or the executor of any such trustee, shall neglect or refuse to assign or surrender such land for the space of Twenty-eight days next after a proper deed for making such assignment or surrender shall have been tendered for his execution by or by an agent duly authorized by any person entitled to require the same, then and in every or any such case it shall be lawful for the said Court of Chancery to direct any person whom such court may think proper to appoint for that purpose in the place of the trustee or executor, to assign or surrender such land to such person and in such manner as the court shall think proper; and every such assignment or surrender shall be as effectual as if the trustee possessed as aforesaid, or his executor, had made and executed the same.

When Trustees of Leasehold Estates are out of the jurisdiction, or it is uncertain whether they be alive, the Court of Chancery may appoint a person to assign or surrender.

And be it further Enacted, That where any person in whose name as a trustee or executor (either alone, or together with the name of any other person) or in the name of whose testator (whether as a trustee or beneficially) any stock shall be standing, or any other person who shall otherwise have power to transfer or join with any other person in transferring any stock to which some other person shall be beneficially entitled, shall be out of the jurisdiction of, or not amenable to the process of the Court of Chancery, or it shall be uncertain whether such person be living or dead, or if any such trustee or executor or other person shall neglect or refuse to transfer such stock, or receive and pay over the dividends thereof to the person entitled thereto or to any part thereof respectively, or as he shall direct, for the space of Thirty-one days next after a request in writing for that purpose shall have been made to any such trustee or executor or other person, by the person entitled as aforesaid, then and in every or any such case it shall be lawful for the Court of Chancery to direct such person as the said court shall think proper to appoint for that purpose in the place of such trustee or executor or other person, to transfer or join in transferring such stock to or into the name of such person and in such manner as such court shall direct; and also to order any person

When Trustees are out of the jurisdiction of the Court, or it is uncertain whether they are alive, or they refuse to transfer stocks or funds, the Court of Chancery may appoint a person to transfer them.

appointed as aforesaid to receive and pay over, or join in receiving and paying over the dividends of such stock, in such manner as the said court shall direct ; and every such transfer, receipt and payment shall be as effectual as if the said trustee or executor or other person had transferred or joined in transferring such stock, or had received and paid, or joined in receiving and paying the said dividends. 5

Every direction or order of the Court of Chancery, or by the Lord Chancellor, &c. under the authority of this Act, to be made upon Petition.

And be it further Enacted, That every direction or order to be made in pursuance of this Act by the Lord Chancellor, intrusted as aforesaid, or by the Court of Chancery, or by any other court hereinbefore mentioned, shall be signified by an order to be made in any cause depending in such court respectively, or upon petition in the lunacy or matter, and such person as hereinafter is mentioned shall be the petitioner, whether such person be or be not under any legal disability, (that is to say) if the same shall relate to a conveyance, transfer, receipt, or payment, to or in such manner as may be directed by any person beneficially entitled, then upon the petition of the person or some or one of the persons beneficially entitled to the land stock or dividends to be conveyed, transferred, received or paid ; and if the same shall relate to a conveyance in order to vest any land or stock in a new trustee duly appointed by virtue of some power or authority in some instrument creating or declaring the trusts of such land or stock, or by the Court of Chancery, either alone or together with any continuing trustee, then upon the petition, either of the trustee or some or one of the trustees in whom the same shall be proposed to be vested, or of any person having an interest therein ; and if the same shall relate to the conveyance of an estate in mortgage, then upon the petition of the person or some or one of the persons entitled to the equity of redemption thereof, or of the person or some or one of the persons entitled to the monies thereby secured, or the guardian or committee, or some or one of the guardians or committees of the person entitled to such monies if an infant or lunatic. 10 15 20 25 30

Lord Chancellor or Court may direct a Bill to be filed to establish the Right.

Provided always nevertheless, and be it further Enacted, That where, on account of the length of time which shall have elapsed since the creation or last declaration of a trust, the title of the person claiming a conveyance or transfer may appear to require deliberate investigation in the presence of all parties interested, in order to prevent the vesting of the legal estate in a person who may not really be entitled to the benefit thereof, or if under other circumstances it shall appear to the Lord Chancellor intrusted as aforesaid, or the Court of Chancery or any other court hereinbefore mentioned, not proper to make an order upon petition, it shall be lawful for such Lord Chancellor or any such Court to direct a Bill to be filed to establish the right of the party seeking the conveyance or transfer, and upon the establishment by a decree 35 40

decree of such right by the same decree, or any order in the cause, or in the lunacy, or both, to direct a conveyance or transfer to be made according to the intent of this Act.

And be it further Enacted, That any committee, infant or other
 5 person directed by virtue of this Act to make or join in making any conveyance or transfer, or receipt or payment, shall and may be compelled, by the order to be obtained as hereinbefore is mentioned, to make and execute the same in like manner as trustees of full age and of sane mind memory and understanding are compellable to convey,
 10 transfer or receive and pay over the trust estates or funds vested in them respectively.

Committees,
 Infants, &c.
 may be com-
 pelled to con-
 vey, transfer,
 &c.

And be it further Enacted, That where the person or any of the
 persons to whom any money shall be payable in or towards the re-
 15 demption or discharge of any mortgage or incumbrance of which a release or conveyance shall be obtained under the powers of this Act, shall be an infant, it shall be lawful for the person by whom such
 money shall be payable to pay the same into the Bank of *England* in the name and with the privity of the Accountant General of the Court of Chancery or of the Court of Exchequer, to be placed to his account
 20 in trust in any cause then depending in the said court concerning such money, or if there shall be no such cause, to the credit of such infant, subject to the order and disposition of the said court respectively, or to such person or persons or in such other manner as the said court respectively shall direct; and the said court shall and is hereby
 25 empowered to order any money which shall so be paid into court to be invested in the public funds, and to order distribution thereof or payment of the dividends thereof, as to the said court shall seem reasonable; and every cashier of the Bank of *England* who shall receive any such money is hereby required to give to the person pay-
 30 ing the same a receipt for such money, and such receipt shall be an effectual discharge for the money therein respectively expressed to have been received.

Mortgage
 money be-
 longing to
 Infants to be
 paid into the
 Bank, or as
 the Court
 shall direct.

And be it further Enacted, That every person being in other respects
 within the meaning of this Act, shall be and be deemed to be a trustee
 35 within the meaning of this Act, notwithstanding he may have some beneficial estate or interest in the same subject, or may have some duty as trustee to perform; but in every such case and in every case of a mortgagee (not being a naked trustee) it shall be in the discretion of the said Lord Chancellor intrusted as aforesaid, or the said Court of Chancery, if under the circumstances it shall seem requisite, to direct a bill to be filed to establish the right of the party seeking the conveyance or transfer, and not to make the order for such conveyance

Act to extend
 to Trustees
 having an
 interest or
 having duty
 to perform.

or transfer unless by the decree to be made in such cause, or until after such decree shall have been made.

Representatives of Vendors to be Trustees within this Act after a Decree for specific performance; and persons in whose names purchases are made, to be such Trustees.

And be it further Enacted, That where any land shall have been contracted to be sold, and the vendor or any of the vendors shall have departed this life, either having received the purchase money for the same or some part thereof, or not having received any part thereof, and a specific performance of such contract, either wholly or as far as the same remains to be executed, or as far as the same by reason of the infancy can be executed, shall have been decreed by the Court of Chancery in the life-time of such vendor, or after his decease, and where one person shall have purchased an estate in the name of another, but the nominal purchaser shall on the face of the conveyance appear to be the real purchaser, and there shall be no declaration of trust from him, and a decree of the said court either before or after the death of such nominal purchaser shall have declared such nominal purchaser to be a trustee for the real purchaser, then and in every such case the heir of such vendor, or such nominal purchaser or his heir, in whom the premises shall be vested, shall be and be deemed to be a trustee for the purchaser within the meaning of this Act.

Tenants for life, &c. of Estates devised in Settlement, and contracted to be sold, may be directed to convey after a Decree for specific performance.

And be it further Enacted, That where any land shall have been contracted to be sold, and the vendor or any of the vendors shall have departed this life, having devised the same in settlement so as to be vested in any person for life or other limited interest, with any remainder, limitation or gift over, which may not be vested, or may be vested in some person from whom a conveyance of the same cannot be obtained, or by way of executory devise, and a specific performance of such contract, either wholly or so far as the same remained to be executed, shall have been decreed by the Court of Chancery, it shall be lawful for the court by whom such decree shall be made, by the same or any other decree, or any decretal order, or upon petition in the cause, to direct any such tenant for life, or other person having a limited interest, or the first executory devisee thereof, to convey the fee-simple or other the whole estate contracted to be sold to the purchaser, or in such manner as the said court shall think proper; and every such conveyance shall be as effectual as if the person who shall make the same were seised of the fee-simple or other the whole estate contracted to be sold.

Act to extend to other constructive and resulting Trusts when declared by Decree.

And be it further Enacted, That the several provisions hereinbefore contained shall extend to every other case of a constructive trust, or trust arising or resulting by implication of law; but in every such case where the alleged trustee has or claims a beneficial interest adversely to the party seeking a conveyance, no order shall be made for the execution of a conveyance by such alleged trustee, until after it has been declared

declared by the Court of Chancery, in a suit regularly instituted in such court, that such person is a trustee for the person so seeking a conveyance; but this Act shall not extend to cases upon partition, or cases arising out of the doctrine of election in equity, or to a vendor, except in any case hereinbefore expressly provided for.

And be it further Enacted, That where any feme covert would be a trustee, mortgagee, heir or executor, within the provisions of this Act, if she were an infant or lunatic, or out of the jurisdiction, or not amenable to the process of the Court of Chancery or Exchequer, or had refused or neglected as aforesaid to execute or make such conveyance, transfer, receipt or payment, as hereinbefore is mentioned, and the concurrence of her husband shall be necessary in any conveyance, transfer, receipt or payment which ought to be made or executed by her as such trustee, mortgagee, heir or executor, then and in any such case such husband, whether under any disability or not, shall be and be deemed to be a trustee within the meaning of this Act.

Husbands of female Trustees to be deemed Trustees within the Act.

And be it further Enacted, That the provisions hereinbefore contained for obtaining conveyances from any person being lunatic, shall extend to and include all persons being lunatic, who, under an Act made and passed in this present Session of Parliament, intituled, "An Act for consolidating and amending the Laws for facilitating the payment of Debts out of real Estate," would be compellable to convey any land, if of sound mind.

Provisions of the Act as to Lunacy to extend to persons compellable to convey under the Fraudulent Devises Act.

And be it further Enacted, That the provisions hereinbefore contained shall extend and be construed to extend to all cases of petitions in which the Lord Chancellor, intrusted as aforesaid, or the Court of Chancery, or any of the Judges thereof, is by law authorized and empowered to grant relief and make summary orders without suit, either in matters of charity or relative to or for the better security, or for the application, receipt, payment or transfer of any of the funds thereof, or in matters relative to any benefit or friendly societies, or for the better security, or for the application, receipt, payment or transfer of any of the funds thereof.

Act to extend to Petitions in cases of Charity and Friendly Societies.

AND whereas cases may occur upon applications by petition under this Act for a conveyance or transfer, where the recent creation or declaration of the trust or other circumstances may render it safe and expedient for the Lord Chancellor intrusted as aforesaid, or the Court of Chancery (as the case may require) to direct by an order upon such petition a conveyance or transfer to be made to a new trustee or trustees, without compelling the parties seeking such appointment to file a Bill for that purpose, although there is no power in any deed or instrument creating or declaring the trusts of such land or stock to appoint

In clear Cases the Lord Chancellor and Court of Chancery may appoint new Trustees upon Petition.

appoint new trustees ; BE it therefore further Enacted, That in any such case it shall be lawful for the Lord Chancellor intrusted as aforesaid, or the said Court of Chancery, to appoint any person to be a new trustee, by an order to be made on a petition to be presented for a conveyance or transfer under this Act, after hearing all such parties, as the said court shall think necessary, and thereupon a conveyance or transfer shall and may be made and executed according to the provisions hereinbefore contained, to or so as to vest such land or stock in such new trustee, either alone or jointly with any surviving or continuing trustee, as effectually and in the same manner as if such new trustee had been appointed under a power in any instrument creating or declaring the trusts of such land or stock, or in a suit regularly instituted.

Court of
Chancery
empowered
to appoint
new Trustees
of Charities.

And be it further Enacted, That where all the persons in whom any land may have been vested in trust for any charity or charitable or public purpose shall be dead, it shall be lawful for the Court of Chancery, on the petition of the persons or body administering such charity or superintending such public purpose, or of any person on behalf thereof, to direct any Master or other officer of the said court to cause two successive advertisements to be inserted in the London Gazette, and in one or more of the newspapers circulated in the county city or place where such land shall be situated, giving notice that the representative of the last surviving trustee do within Twenty-eight days appear or give notice of his title to such Master or other officer, and prove his pedigree or other title as trustee ; and if no person shall appear to give such notice within such Twenty-eight days, or the person who may appear or give such notice shall not within Thirty-one days after such appearance or notice prove his title to the satisfaction of such Master or other officer, then and in such case it shall be lawful for the said court to appoint any new trustees for such charity or charitable or public purpose, and such land may be conveyed to such new trustees by any person whom the said court respectively may direct for that purpose, by virtue of the provisions in this Act, without the necessity of any decree.

Where Trustees, defendants in Equity, cannot be found on diligent search, and affidavit thereof, an absolute Decree may be made as if they were served with Process and appeared, &c.

And be it further Enacted, That where in any suit commenced or to be commenced in the Court of Chancery, it shall be made to appear to the court by affidavit that diligent search and inquiry has been made after any person made a defendant, who is only a trustee, to serve him with the process of the court, and that he cannot be found, it shall be lawful for the said court to hear and determine such cause, and to make such absolute decree therein against every person who shall appear to them to be only a trustee, and not otherwise concerned in interest in the matter in question, in such and the same manner as if such trustee had been duly served with the process of the court, and had appeared and filed his answer thereto, and had also appeared by his

his counsel and clerk at the hearing of such cause : Provided always, That no such decree shall bind affect or in anywise prejudice any person against whom the same shall be made without service of process upon him as aforesaid, his heirs executors or administrators, for or in
 5 respect of any estate right or interest which such person shall have at the time of making such decree, for his own use or benefit, or otherwise than as a trustee as aforesaid.

Except so far as concerned in an interest.

And be it further Enacted, That the Lord Chancellor, intrusted as aforesaid, and the Court of Chancery, may order the costs and expenses of and relating to the petitions, orders, directions, conveyances and transfers to be made in pursuance of this Act, or any of them, to be paid and raised out of or from the land or stock, or the rents or dividends in respect of which the same respectively shall be made, or in such other manner as the said Lord Chancellor or Court shall
 10 think proper.

Costs may be directed to be paid.

And be it further Enacted, That the powers and authorities given by this Act to the Lord Chancellor of *Great Britain*, intrusted as aforesaid, shall extend to all land and stock within any of the dominions, plantations and colonies belonging to His Majesty (except
 20 *Scotland and Ireland*.)

Powers in matters of Lunacy, &c. to extend to all the King's dominions, except Scotland and Ireland.

And be it further Enacted, That the powers and authorities given by this Act to the Lord Chancellor of *Great Britain*, intrusted as aforesaid, shall and may be exercised in like manner by and are hereby given to the Lord Chancellor of *Ireland*, intrusted as aforesaid, with
 25 respect to all land and stock in *Ireland*.

Powers in matters of Lunacy, &c. to be exercised by the Lord Chancellor, &c. of Ireland, as to Property there.

And be it further Enacted, That the powers and authorities given by this Act to the Lord Chancellor of *Great Britain*, intrusted as aforesaid, shall and may be exercised in like manner by and are hereby given to the Lord Keeper or Commissioners of the Great Seal of
 30 *Great Britain* for the time being, intrusted as aforesaid; and the powers and authorities given by this Act to the Lord Chancellor of *Ireland*, intrusted as aforesaid, shall and may be exercised in like manner by and are hereby given to the Lord Keeper or Commissioners of the Great Seal of *Ireland* for the time being, intrusted as aforesaid.

Powers given to the Lord Chancellor to extend to the Lord Keeper and Commissioners.

And be it further Enacted, That the powers and authorities given by this Act to the Court of Chancery in *England* shall extend to all land and stock within any of the dominions, plantations and colonies belonging to His Majesty (except *Scotland*.)
 35

Powers given to the Court of Chancery to extend to all the King's Dominions, except Scotland.

And be it further Enacted, That the powers and authorities given by this Act to the Court of Chancery, and the provisions contained in this Act relating to the said court, shall and may be exercised in like manner by and are hereby given and extended to the Court of
 40 Exchequer.

Powers given to the Court of Chancery also given to the Court of Exchequer.

Powers given to the Court of Chancery and Exchequer, given as to property in Ireland to the same Courts there.

And be it further Enacted, That the powers and authorities given by this Act to the Courts of Chancery and Exchequer in *England*, and the provisions contained in this Act relating to the same courts, shall and may be exercised in like manner, and are hereby given and extended to the several Courts of Chancery and Exchequer in *Ireland*,
5 with respect to all land and stock in *Ireland*.

Who shall be named in the Orders of the Court for making transfers.

Provided always, and be it further Enacted, That in all cases in which orders shall be made in pursuance of this Act, for the transfer of stock, the person to be named in such order for making such transfer, shall either be the committee of the estate of the person being lunatic, in
10 whose place such transfer shall be made, or a co-trustee or co-executor of the person in whose place such person shall be directed to transfer, or some officer of the company or society in whose books the same respectively shall be directed to be made; and where such transfer shall be directed to be made in books kept by the Governor and Com-
15 pany of the Bank of *England*, such officer shall be the Secretary or Deputy Secretary, or Accountant General for the time being of the said Governor and Company, or his Deputy.

Act to be an indemnity to the Bank and other Companies.

And be it further Enacted, That this Act shall be and is hereby declared to be a full and complete indemnity and discharge to the
20 Governor and Company of the Bank of *England*, and all other companies and societies, and their officers and servants, for all acts and things done or permitted to be done pursuant thereto, and that such acts and things shall not be questioned or impeached in any court of law or equity to their prejudice or detriment.

12 February 1830.



A

B I L L

For consolidating and amending the Laws relating to
Property belonging to Infants, Femes Covert, Idiots,
Lunatics, and Persons of unsound Mind.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

WH *H E R E B Y* an Act was passed in the ninth year of the
reign of King George the First, intituled, “ An Act to
“ enable Lords of Manors more easily to recover their Fines, and to
“ exempt Infants and Femes Covert from Forfeitures of their Copy-
5 “ hold Estates, in particular cases:” AND whereas an Act was passed
in the twenty-ninth year of the reign of King George the Second,
intituled, “ An Act to enable Infants, Lunatics and Femes Covert,
“ to surrender Leases in order to renew the same:” AND whereas an
Act was passed in the eleventh year of the reign of King George the
10 Third, intituled, “ An Act to enable Lunatics entitled to renew
“ Leases, their Guardians and Committees, to accept of Surrenders
“ of old Leases, and grant new ones:” AND whereas an Act was
passed in the Parliament of Ireland, in the eleventh year of the reign
of Queen Anne, intituled, “ An Act to enable Guardians and others
15 “ to renew Leases for Lives:” AND whereas an Act was passed in
the forty-third year of the reign of King George the Third, intituled,
“ An Act to authorize the Sale or Mortgage of the Estates of Per-
“ sons found Lunatic by Inquisition, in England or Ireland respec-
“ tively, and the granting of Leases of the same:” AND whereas an
20 Act was passed in the forty-seventh year of the reign of King George
the Third, intituled, “ An Act concerning Common Recoveries suf-
“ fered in Copyhold or Customary Courts by Attorney:” AND
whereas an Act was passed in the fifty-ninth year of the reign of
King George the Third, intituled, “ An Act concerning Common
“ Recoveries to be suffered by Attorney in Courts of ancient De-
“ mesne, and to explain an Act of His present Majesty, relative to
“ the Sale or mortgaging of Estates of Lunatics:” AND whereas an

Preamble:

9 G. 1. c. 29.

29 G. 2. c. 31.

11 G. 3. c. 20.

11 Anne (I.) c. 3.

43 G. 3. c. 75.

47 G. 3. c. 8. s. 2.

59 G. 3. c. 80.

6 G. IV. c. 74.

Act was passed in the sixth year of the reign of His present Majesty, intituled, "An Act for consolidating and amending the Laws relating to Conveyances and Transfers of Estates and Funds vested in Trustees who are Infants, Idiots, Lunatics, or Trustees of unsound mind, or who cannot be compelled, or refuse to act; and also the Laws relating to Stocks and Securities belonging to Infants, Idiots, Lunatics and Persons of unsound mind:" AND whereas an Act was passed in the ninth year of the reign of His present Majesty, intituled, "An Act for extending the Acts passed in the forty-third and fifty-ninth years of the reign of his late Majesty King George the Third, for the Sale and Mortgage of Estates of Persons found Lunatics by Inquisition taken in England and Ireland, so as to authorize such Sale and Mortgage for other purposes; and for rendering Inquisitions or Commissions of Lunacy taken in England available in Ireland, and like Inquisitions taken in Ireland available in England:"

9 Geo. 4, c. 78.

AND whereas it is expedient the Provisions of the said Acts should be consolidated and amended;

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said recited Acts of the eleventh year of the reign of Queen Anne, the ninth year of the reign of King George the First, the twenty-ninth year of the reign of King George the Second, the eleventh, forty-third, forty-seventh and fifty-ninth years of the reign of King George the Third, and the ninth year of the reign of His present Majesty, and also the said recited Act of the sixth year of the reign of His present Majesty, so far as the said last-mentioned Act relates to stocks, funds, annuities and securities belonging beneficially to persons being Infants, Idiots, Lunatics or of unsound mind, shall be and the same are hereby Repealed, (except as to such proceedings under the same as shall have been commenced before the passing of this Act, and which may be proceeded in according to the provisions of the said recited Acts respectively, or according to the provisions of this Act, as shall be thought expedient :) Provided always, That the several Acts repealed by the said last recited Act shall not be revived.

Former Acts repealed.

Rules for the Interpretation of this Act.

AND inasmuch as in order to avoid unnecessary repetition certain words are used in this Act, as describing subjects, some of which, according to their usual sense such words would not embrace for the understanding of the sense attached to them in this Act; BE it further Enacted, That the provisions of this Act shall extend and be understood to extend to and include the several other estates, persons, matters and things hereinafter mentioned; (that is to say) Those relating to Land, to any manor, messuage, tenement, hereditament or real property of whatsoever tenure, and to property of every description transferable otherwise than in books kept by any

any company or society, or any share thereof or charge thereon, or estate or interest therein; those relating to Stock, to any fund, annuity or security transferable in books kept by any company or society, or to any money payable for the discharge or redemption thereof, or any share or interest therein; those relating to Dividends, to interest or other annual produce; those relating to the Bank of England, to the East India Company, South Sea Company, or any other company or society established or to be established; those relating to a Conveyance, to any release, surrender, assignment or other assurance, including all acts deeds and things necessary for making and perfecting the same; those relating to a Transfer, to any assignment, payment or other disposition; and those relating to a Lunatic, to any idiot or person of unsound mind or incapable of managing his affairs; unless there be something in the subject or context repugnant to such construction; and whenever this Act, in describing or referring to any person, or any land, stock, conveyance, lease, recovery, matter or thing, uses the word importing the singular number or the masculine gender only, the same shall be understood to include and shall be applied to several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, and several lands, stocks, conveyances, leases, recoveries, matters or things, as well as one land, stock, conveyance, lease, recovery, matter or thing respectively, unless there be something in the subject or context repugnant to such construction.

And be it further Enacted, That from and after the *passing of this Act*, where any person being under the age of twenty-one years, or being a Feme Covert or Lunatic, is or shall be entitled by descent or surrender to the use of a last will, or otherwise, to be admitted tenant of any copyhold lands, such person in his or her own proper person, or being a Feme Covert by her attorney, or being an Infant by his guardian or attorney, as the case may require, or being a Lunatic by the committee of his estate, shall come to and appear at one of the three next courts which shall be kept (for the keeping whereof the usual notice shall be given) for the manor whereof such land shall be parcel, and shall there offer himself or herself to the lord or his steward, to be admitted tenant to the said land; to make which appearance and to take which admittance in behalf of such Infant or Lunatic or Feme Covert, such guardian, committee or attorney shall be and is hereby respectively authorized and required.

9 G. 1. c. 29. s. 1.

Infants, Femes Covert and Lunatics, may be admitted to Copyhold Estates by their Guardian, Committee or Attorney.

And be it further Enacted, That it shall be lawful for any Feme Covert, and for any Infant who shall have no guardian, and she and he is hereby empowered, by writing under her or his hand and seal respectively, to appoint an Attorney or Attornies on her or his behalf, for the purpose of appearing and taking such admittance as aforesaid.

Femes Covert, Infants and Lunatics, empowered to appoint Attornies for that purpose.

9 G. 1. c. 29. s. 1.

And be it further Enacted, That in default of such appearance of any Infant, Feme Covert or Lunatic, in his or her own person, or by his

In default of Appearance, the Lord may appoint an Attorney.

9 G. 1. c. 29. s. 1.

his or her guardian, committee or attorney in that behalf, and of acceptance of such admittance as aforesaid, it shall be lawful for the lord of every such manor, or his steward, after such three several courts have been duly holden for such manor, and proclamations in such several courts been regularly made, to appoint, at any subsequent court to be holden for such manor, any fit person to be attorney for every such Infant, Feme Covert or Lunatic, for that purpose only, and by such attorney to admit every such Infant, Feme Covert or Lunatic, to the said land, according to such estate as such Infant, Feme Covert or Lunatic shall be legally entitled to therein, and upon every such admittance to impose and set such fine as might have been legally imposed and set if such Infant had been of full age, or if such Feme Covert had been sole and unmarried, and if such Lunatic had been of sane mind.

Fines, in what manner demandable.
9 G. 1. c. 29. s. 2.

If not paid, &c. the Lord may enter and receive the Profits of the Copyhold till he is satisfied, &c.

The Lord to account yearly ;

To deliver up possession on satisfaction of the Fines.
9 G. 1. c. 29. s. 3.

And be it further Enacted, That upon every such admittance of any Infant, Feme Covert or Lunatic as aforesaid, the fine imposed and set thereupon shall and may be demanded by the bailiff or agent of the lord of such manor, by a note in writing, signed by the lord of such manor or by his steward, to be left with the guardian of such Infant, or such Infant if he have no guardian, or with such Feme Covert or her husband, or with the committee of the estate of such Lunatic, or with the tenant or occupier of the land to which such Infant, Feme Covert or Lunatic shall have been admitted as aforesaid ; and if the fine so imposed and set be not paid or tendered to such lord or his steward within *Three months* after such demand made, then it shall be lawful for the lord of such manor to enter into and upon the copyhold land to which any such Infant, Feme Covert or Lunatic shall be so admitted, and to hold and enjoy the same, and to receive the rents issues and profits thereof, but without liberty to fell any timber standing thereon for so long time only, and until by such rents issues and profits such lord shall be fully paid and satisfied such fine, together with all reasonable costs and charges which such lord shall have been put unto in levying and raising the same, and in obtaining the possession of such copyhold land, although such Infant, Feme Covert or Lunatic shall happen to die before such fine and fines and the costs and charges aforesaid shall be raised and collected ; of all which rents issues and profits so to be received by such lord of such manor, or his steward, bailiff or servant, upon the occasion aforesaid, such lord shall yearly and every year, upon demand to be made by the person who shall be entitled to the surplus of the said rents and profits, over and above what will pay and satisfy such fine and costs and charges, or by the person who shall be then entitled to such copyhold land, give and render a just and true account, and shall pay the same surplus, if any, to such person as shall be entitled to the same.

And be it further Enacted, That as soon as such fine and the costs charges and expenses aforesaid shall be fully paid and satisfied,
or

or if after such seizure and entry of and upon such copyhold land for the purposes aforesaid, such fine and the costs and charges aforesaid shall be lawfully tendered and offered to be paid and satisfied to the lord of such manor, then and in any of the said cases it shall be lawful for such Infant, Feme Covert, Lunatic or other person entitled thereto, or the guardian of such Infant, the husband of such Feme Covert, or the committee of such Lunatic, to enter upon and take possession of and hold the said copyhold land according to the estate or interest such Infant, Feme Covert or Lunatic shall be lawfully entitled to therein, and the lord of such manor shall and is hereby required in any of the said cases to deliver possession thereof accordingly ; and if such lord, after such fine and the costs and charges aforesaid shall be fully paid and satisfied, or after the same shall have been tendered or offered to be paid as aforesaid, shall refuse to deliver the possession of the said copyhold land as aforesaid, he or they shall be liable to and shall make satisfaction to the person or persons so kept out of possession, for all the damages that he or she shall thereby sustain, and all the costs and charges that he or she shall be put unto for the recovery thereof.

And be it further Enacted, That where any Infant, Feme Covert or Lunatic shall be admitted to any copyhold land, if the guardian of such Infant, or husband of such Feme Covert, or committee of such Lunatic shall pay to the lord of any manor the fine legally imposed and set upon such admittance, and the costs and charges which such lord of such manor shall have been put unto as aforesaid, then it shall be lawful for every guardian of such Infant, or husband of such Feme Covert, or committee of such Lunatic, his executors and administrators, to enter into and to hold and enjoy the said land to which such Infant, Feme Covert or Lunatic shall have been so admitted, and receive and take the rents issues and profits thereof to his and their own use, until thereby such guardian of such Infant, or husband of such Feme Covert, or committee of such Lunatic, his executors and administrators, shall be fully satisfied and paid all and every such sum and sums of money as he shall respectively pay and disburse upon the account aforesaid, notwithstanding the death of such Infants, Femes Covert or Lunatic shall happen before such sum or sums of money so expended shall or may be so raised and reimbursed.

Provided always, and be it further Enacted, That from and after the *passing of this Act*, no Infant, Feme Covert or Lunatic shall forfeit any copyhold land for his or her neglect or refusal to come to any court to be kept for any manor whereof such land is parcel, and to be admitted thereto, nor for the omission, denial or refusal of any such Infant, Feme Covert or Lunatic, to pay any fine imposed or set upon his or her admittance to any such land.

Provided nevertheless, and be it further Enacted, That if the fine imposed in any of the cases hereinbefore mentioned shall not be warranted by the custom of the manor, or shall be unlawful, then

Guardians or Husbands, or Committees paying Fines, may reimburse themselves out of the Rents of the Copyhold.

9 G. 1. c. 29. s. 4.

No Forfeiture to be incurred by Infant, &c. for not appearing or refusing to pay Fines.

9 G. 1. c. 29. s. 5.

Fines not warranted by custom, &c. may be contraverted.

9 G. 1. c. 29. s. 6.

such Infant, Feme Covert or Lunatic shall be at liberty to controvert the legality of such fine, in such manner as he or she might have done if this Act had not been made.

Persons may appoint Attornies, &c. for surrendering Copyholds and other Lands, &c. of which common Recoveries are intended to be suffered, &c.

47 G. 3. sess. 2.

c. 8. s. 1.

59 G. 3. c. 80.

And be it further Enacted, That it shall be lawful for any person, not being under coverture, and for every Feme Covert (such Feme Covert being solely and secretly examined by the lord of the manor whereof the land of which a common recovery is proposed to be suffered shall be holden by copy of court roll, or in ancient demesne or otherwise, or by his steward, or by the deputy of such steward) to appoint any person to be his or her attorney, for the purpose of surrendering the land of which a common recovery shall be proposed to be suffered, to the use of any person, to make him tenant to the plaint, and also to appoint any other person to appear for the person so appointing as vouchee, and to enter into the usual warranty, and to do all other lawful and necessary acts for the suffering and perfecting of such common recovery respectively, and to direct the demandant in such common recovery respectively to surrender the tenements so recovered, when or after such recovery shall be suffered and perfected, to such uses as shall be declared in the instrument by which such attorney shall be respectively appointed; and that the surrender and common recovery which shall be had acknowledged and suffered as aforesaid, shall have the like effect, but no other, as such surrender and common recovery would have had if the party who shall acknowledge such surrender, and suffer such common recovery by attorney, and give such directions as aforesaid, had appeared in court in his or her person, and acknowledged the said surrender, and suffered the same recovery, and had joined in the surrender to be made by such demandant.

Guardians, &c. of Minors, &c. in order to the surrender and renewal of Leases, may apply to the Court of Chancery, &c. and by Order may surrender by Deed such Leases, and renew the same, &c.

29 G. 2. c. 31. s. 1.

And be it further Enacted, That in all cases where any person, being under the age of twenty-one years, or a Feme Covert, is or shall become entitled to any lease or leases made or granted or to be made or granted for the life or lives of one or more person or persons, or for any term of years, either absolute or determinable upon the death of one or more person or persons, or otherwise, it shall be lawful for such person under the age of twenty-one years, or for his or her guardian or other person on his behalf, and for such Feme Covert or any person on her behalf, to apply to the Court of Chancery in England, the Courts of equity of the counties palatine of Chester, Lancaster and Durham, or the Courts of Great Session of the principality of Wales respectively, as to land within their respective jurisdiction, by petition or motion in a summary way, and by the order and direction of the said courts respectively such Infant or Feme Covert, or his guardian, or any person appointed in the place of such Infant or Feme Covert by the said Courts respectively, shall and may be enabled from time to time, by deed or deeds, to surrender such lease or leases, and accept and take in the place and for the benefit of such person under the age of twenty-one years, or Feme Covert, one or more new lease or leases of the premises

premises comprised in such lease surrendered by virtue of this Act, for and during such number of lives, or for such term or terms of years determinable upon such number of lives, or for such term or terms of years absolute, as was or were mentioned or contained in the lease or leases so surrendered at the making thereof respectively, or otherwise, as the said courts shall respectively direct.

And be it further Enacted, That in all cases where any person, being Lunatic, shall become entitled to any lease or leases made or granted or to be made or granted for the life or lives of one or more person or persons, or for any term of years, either absolute or determinable upon the death of one or more person or persons, or otherwise, it shall be lawful for the committee of the estate of such person to apply to the Lord Chancellor of Great Britain, being intrusted by virtue of the King's sign manual with the care and commitment of the custody of the persons and estates of persons found Idiot, Lunatic or of unsound mind, by petition or motion in a summary way ; and by the order and direction of the said Lord Chancellor intrusted as aforesaid, such committee shall and may be enabled from time to time, by deed or deeds, in the place of such Lunatic, to surrender such lease or leases, and accept and take, in the name and for the benefit of such Lunatic, one or more new lease or leases of the premises comprised in such lease or leases surrendered by virtue of this Act, for and during such number of lives, or for such term or terms of years, absolute or determinable as aforesaid, as was or were mentioned or contained in the lease or leases so surrendered at the making thereof respectively, or otherwise, as the said Lord Chancellor, intrusted as aforesaid, shall direct.

Committees of Lunatics, in order to the surrender and renewal of Leases, may apply to the Lord Chancellor, and by Order may surrender by Deed such Leases, and renew the same, &c. 29 G. 2. c. 31. s. 1.

And be it further Enacted, That every sum of money and other consideration paid by any guardian, trustee, committee or other person, as a fine, premium or income, or in the nature of a fine, premium or income, for the renewal of any such lease, and all reasonable charges incident thereto, shall be paid out of the estate or effects of the Infant or Lunatic for whose benefit the lease shall be renewed, or shall be a charge upon the leasehold premises, together with interest for the same, as the said Courts and Lord Chancellor intrusted as aforesaid respectively shall direct and determine ; and as to leases to be made upon surrenders by Females Covert, unless the fine or consideration of such lease and the reasonable charges shall be otherwise paid or secured, the same, together with interest, shall be a charge upon such leasehold premises, for the benefit of the person who shall advance the same.

Charges attending renewal, to be charged on the Estates, and as Court shall direct. 29 G. 2. c. 31. s. 2.

And be it further Enacted, That every lease to be renewed as aforesaid shall operate and be to the same uses, and be liable to the same trusts, charges, incumbrances, dispositions, devices and conditions, as the lease to be from time to time surrendered as aforesaid was or would have been subject to in case such surrender had not been made.

New Leases to be to same uses. 29 G. 2. c. 31. s. 3

Infants empowered,
by direction of
Court of Chancery,
to grant renewals
of Leases.

11 G. 3. c. 20. s. 1.
11 Anne (I.) c. 3.
s. 1.

And be it further Enacted, That where any person, being under the age of twenty-one years, or a Feme Covert, might, in pursuance of any covenant or agreement, if not under disability, be compelled to renew any lease made or to be made for the life or lives of one or more person or persons, or for any term or number of years absolute 5
or determinable on the death of one or more person or persons, it shall be lawful to and for such Infant, or his guardian in the name of such Infant, or such Feme Covert, by the direction of the Court of Chancery, to be signified by an order to be made in a summary way upon the petition of such Infant or his guardian, or of such Feme Covert, or 10
of any person entitled to such renewal, from time to time to accept of a surrender of such lease, and to make and execute a new lease of the premises comprised in such lease, for and during such number of lives, or for such term or terms determinable upon such number of lives, or for such term or terms of years absolute, as was 15
or were mentioned in the lease so surrendered at the making thereof, or otherwise, as the Court by such order shall direct.

Court of Chancery
may grant Leases
of any Lands belong-
ing to Infants when
it is to the benefit
of the Estate.

And be it further Enacted, That where any person, being an Infant under the age of twenty-one years, is or shall be seised or possessed of or entitled to any land in fee or in tail, or to any lease- 20
hold land for an absolute interest, and it shall appear to the Court of Chancery to be for the benefit of such person that a Lease or under-lease should be made of such estates for terms of years, for encour-aging the erection of buildings thereon, or for repairing buildings 25
actually being thereon, or the working of mines, or otherwise improv- ing the same, or for farming or other purposes, it shall be lawful for such Infant, or his guardian in the name of such Infant, by the direction of the Court of Chancery, to be signified by an order to be made in a summary way, upon the petition of such Infant or his guardian, to make such lease of the land of such persons respec- 30
tively, or any part thereof, according to his or her interest therein respectively, and to the nature of the tenure of such estates respec- tively, for such term or terms of years, and subject to such rents and covenants as the said Court of Chancery shall direct; but in no such case shall any fine or premium be taken, and in every such 35
case the best rent that can be obtained, regard being had to the nature of the lease, shall be reserved upon such lease; and the leases and covenants and provisions therein shall be settled and approved of by a Master of the said Court, and a counterpart of every such lease shall be executed by the lessee or lessees therein to be named, and 40
such counterparts shall be deposited for safe custody in the Master's office, until such Infant shall attain twenty-one, but with liberty to proper parties to have the use thereof, if required, in the meantime, for the purpose of enforcing any of the covenants therein contained.

If Persons bound to
renew are out of the
jurisdiction of the
Court, renewals
to be by a Person
to be appointed by
the Court of Chan-
cery.

Anne (I.) c. 3. s. 2.

And be it Enacted, That where any person, who in pursuance of any covenant or agreement in writing, might, if within the juris- diction and amenable to the process of the Court of Chancery, be compelled to execute any lease by way of renewal, shall not be 5
within

within the jurisdiction or not amenable to the process of the said Court, it shall be lawful to and for the said Court of Chancery, by an order to be made upon the petition of any person or any of the persons entitled to such renewal (whether such person be or be not

5 under any disability) to direct such person as the said Court shall think proper to appoint for that purpose, to accept a surrender of the subsisting lease, and make and execute a new lease in the name of the person who ought to have renewed the same; and such deed executed by the person to be appointed as aforesaid shall be as valid

10 as if the person in whose name the same shall be made had executed the same, and had been alive and not under any disability; but in every such case it shall be in the discretion of the said Court of Chancery, if under the circumstances it shall seem requisite, to direct a bill to be filed to establish the right of the party seeking

15 the renewal, and not to make the order for such new lease unless by the decree to be made in such cause, or until after such decree shall have been made.

To be in the Name of the Person who ought to have renewed.

And be it further Enacted, That where any person, being Lunatic, is or shall be entitled or has a right, or in pursuance of any covenant

20 or agreement might, if not under disability, be compelled to renew any lease made or to be made for the life or lives of one or more person or persons, or for any term or number of years absolute or determinable on the death of one or more person or persons, or otherwise, it shall be lawful to and for the committee of the estate of such

25 Lunatic, in the name of such Lunatic, by the direction of the Lord Chancellor intrusted as aforesaid, to be signified by an order to be made in a summary way upon the petition of such committee, or of any person entitled to such renewal, from time to time to accept of a surrender of such lease, and to make and execute to any person

30 a new lease of the premises comprised in such lease to be surrendered by virtue of this Act, for and during such number of lives, or for such term or terms of years determinable upon such number of lives, or for such term or terms of years absolute, as were mentioned or contained in such lease so surrendered at the making thereof, or otherwise, as

35 the Lord Chancellor, intrusted as aforesaid, by such order shall direct; and this provision shall extend as well to cases where the Lunatic shall not be compellable to renew; but it shall be for his benefit to do so as to cases where a renewal might be effectually enforced against the Lunatic, if of sound mind.

Committees of Lunatics empowered by the direction of the Lord Chancellor to renew Leases.
11 G. 3. c. 20. s. 1.

May accept of Surrenders, and make new Leases.

40 Provided always, and be it further Enacted, That no renewed lease shall be executed by virtue of this Act, in pursuance of any covenant or agreement, unless the fine (if any) or such other sum or sums of money (if any) as ought to be paid on such renewal, and such things (if any) as ought to be performed in pursuance of such covenant or agreement by the lessee or tenant, be first paid and performed; and counterparts of every renewed lease to be executed by virtue of this Act, shall be duly executed by the lessee.

Fines to be paid before Renewals, and Counterparts to be executed.
11 Anne (I.) c. 3. s. 2.

Premiums how to
be paid.
4 G. S. c. 20. s. 3.

On death of Lunatic,
Money arising
by such Fines to be
considered Real
Estate, unless, &c.

The Irish Act,
11 Anne, c. 3.
continued unaltered.

And be it further Enacted, That all fines premiums and sums of money which shall be had received or paid for or on account of the renewal of any lease, after a deduction of all necessary incidental charges and expenses, shall be paid, if such renewal shall be made by or in the name of an Infant, to his guardian, and be applied and disposed of for the benefit of such Infant, in such manner as the said court shall direct; if such renewal shall be made by a Feme Covert, to such person or in such manner as the court shall direct for her benefit; if such renewal shall be made in the name of any person out of jurisdiction or not amenable as aforesaid, to such person or in such manner, or into the court of Chancery to such account, and to be applied and disposed of as the said court shall direct; and if such renewal shall be made in the name of a Lunatic, to the committee of the estate of such Lunatic, and be applied and disposed of for the benefit of such Lunatic, in such manner as the Lord Chancellor, intrusted as aforesaid, shall direct; but upon the death of such Lunatic, all such sum and sums of money as shall arise by such fines or premiums, or so much thereof as shall remain unapplied for the benefit of such Lunatic at his death, shall, as between the representatives of the real and personal estates of such Lunatic, be considered as real estate, unless such Lunatic shall be tenant for life only, and then the same shall be considered as personal estate.

AND whereas by the said Act passed in the Parliament of Ireland in the eleventh year of the reign of Queen Anne, after reciting that several persons had theretofore made and thereafter might make leases for one or more life or lives, of several lands tenements and hereditaments in the said then Kingdom of Ireland, with covenants and agreements in such leases for renewing the same from time to time on the tender and payment of some fine certain on the death of any life or lives in such lease or leases mentioned, by adding such one or more life or lives, on failure of the life or lives in being, within the respective times in such agreements and covenants mentioned, as the several lessee or lessees in such lease or leases should nominate; and also reciting, that through one pretence or other, on the fall or failure of any life or lives in being, the lessee or lessees were greatly delayed before he or they could obtain any renewal according to the covenants and agreements in their leases, to their very great discouragement; for remedy whereof it was enacted, That if it should so happen that any person or persons who, in pursuance of such agreements for renewal in such leases contained or to be contained, ought to make such new lease or leases as had been or should be agreed to be made, should be under any disability so to do, by reason of infancy, coverture, or non compos mentis, that then and in every such case (that is to say) in case of disability by reason of infancy or being under age, by the direction of the High Court of Chancery or the Court of Exchequer, signified by an order made upon hearing all parties concerned on the petition of such lessee or lessees, it should and might be lawful to and for the guardian or guardians of such infant or person under age, upon such lessee or lessees

lessees tendering the fine or fines agreed on in such lease, and performing all such matters and things as by the said covenants and agreements ought to be performed on his or their part and behalf previous to such renewal, in such manner as should by such order be directed, to renew such lease or leases by adding such new life or lives as should be named by the said lessee or lessees according to the said covenants and agreements, and such guardian or guardians were thereby required to renew such lease or leases by putting in such new life or lives as should be so named unto them as aforesaid, while the infant or minor of such guardian or guardians should be under such disability of infancy or under age :

And it was further enacted, That in all cases where the person or persons who by covenant or agreement were obliged to make such renewals, were or should be disabled to renew by reason of being under coverture, beyond the seas, or non compos mentis, it should and might be lawful to and for the Lord Chancellor or Commissioner or Commissioners of the Great Seal of the said then Kingdom of Ireland for the time being, upon petition or complaint made to him or them in the High Court of Chancery, upon payment of the fine and such other sum or sums of money as ought to be paid upon such renewal for the use of the person or persons entitled to the same, and upon the lessee or lessees doing and performing all and every such matters and things as by the said covenants or agreements in the said lease or leases ought to be done or performed by him or them previous to such renewal, to order or appoint such renewal or renewals to be made by one of the masters of the said Court of Chancery, to be nominated and appointed by the said Lord Chancellor or Commissioner or Commissioners of the Great Seal for the time being ; and such master so nominated and appointed, and also such guardian and guardians as aforesaid, should make and execute such deed of renewal in the name of the person or persons who ought to have renewed the same, which deed or deeds of renewal so made and executed by the said guardian or guardians, master or masters, counterparts thereof being duly perfected by the lessee or lessees for the use and benefit of the person or persons having the reversion and inheritance of such lands tenements or hereditaments comprised in such deed or deeds, should be as good and effectual in law and equity, to all intents and purposes, as if the person or persons under age had been of full age and had executed the same, or as if the other person or persons under such disability had not been so disabled and had executed the same ; provided such person or persons under age or under such disability as aforesaid were at the time of the renewal of such lease compellable in law or equity to make such renewal :

AND whereas it is expedient that the provisions of the said recited Act which have been so long in force in Ireland should remain unaltered ; BE it therefore further Enacted, That the clauses and provisions contained in the said Act shall be and continue in force in the same manner to all intents and purposes as if the said clauses and provisions, and every part thereof, had been repeated and re-enacted in this Act ; and none of the other provisions in this Act contained,

Lord Chancellor may order renewal to be made by a Master in Chancery, when persons are under disability.

Provisions of Act not to extend to Land in Ireland.

for authorizing any surrenders to be accepted or any new lease to be made or executed for or on the behalf of any person who, in pursuance of any covenant or agreement for renewal in any lease contained or to be contained, ought to make such new lease or leases, shall extend or be construed to extend to land in Ireland.

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The power of leasing Lands, &c. of Lunatics having only a limited Estate therein, may be executed by the Committee of the Estate of such Person, under the direction of the Chancellor.

43 G. 3. c. 75. s. 3.

And be it further Enacted, That where any person, being Lunatic, is or shall be seised or possessed of any land, either for life or for some other estate, with power of granting leases and taking fines, reserving small rents on such leases for one two or three lives in possession or reversion, or for some number of years determinable upon lives, or for any term of years absolutely, such power of leasing which is or shall be vested in such person, being Lunatic and having a limited estate only, shall and may be executed by the Committee of the estate of such person, under the direction and order of the Lord Chancellor, intrusted as aforesaid.

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Where Lunatics are seised of Freehold or Copyhold Estates, in fee or in tail, and an absolute Interest in Leasehold Estates, the Chancellor may direct the Committee of the Estate to make Leases thereof.

49 G. 3. c. 75. s. 4.

And be it further Enacted, That where any person, being Lunatic, is or shall be seised or possessed of or entitled to any land in fee or in tail, or to any leasehold land for an absolute interest, and it shall appear to the Lord Chancellor, intrusted as aforesaid, to be for the benefit of such person that a lease or under-lease should be made of such estates for terms of years, for encouraging the erection of buildings therein, or for repairing buildings actually being thereon, or otherwise improving the same, or for farming or other purposes, it shall be lawful for the Lord Chancellor, intrusted as aforesaid, to order and direct the Committee of the estate of such Lunatic to make such lease of the land of such persons respectively, or any part thereof, according to his or her interest therein respectively and to the nature of the tenure of such estates respectively, for such term or terms of years, and subject to such rents and covenants as the Lord Chancellor, intrusted as aforesaid, shall direct.

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1 Geo. 1. c. 10. s. 9. Agreements respecting the patronage of Livings for the purposes of Queen Anne's Bounty may be made by Guardians, with the approbation of the Court of Chancery, and by Committees, with the approbation of the Lord Chancellor.

AND whereas by an Act passed in the first year of the reign of King George the First, intituled, "An Act for making more effectual her late Majesty's gracious intentions for augmenting the maintenance of the Poor Clergy," it was enacted, That the agreements of guardians for and on behalf of Infants or Idiots under their guardianship, should be as good and effectual to all intents and purposes as if the said Infants or Idiots had been of full age and of sound mind, and had themselves entered into such agreements: AND whereas it is desirable that the said powers should be exercised under proper control, and that the same should be extended to all persons against whom a commission of lunacy shall have issued; BE it further Enacted, That so much of the said Act of the first year of the reign of King George the First, as is hereinbefore recited, shall be and the same is hereby repealed; and be it further Enacted, That the guardian of any infant, with the approbation of the Court of Chancery, to be signified by an order

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order to be made on the petition of such guardian in a summary way, may enter into any agreement for or on behalf of such infant, which such guardian might have entered into by virtue of the said last recited Act, if the same had not been repealed; and the committee of the estate of any lunatic, with the approbation of the Lord Chancellor, intrusted as aforesaid, to be signified by an order to be made in the petition of such committee in a summary way, may enter into any agreement for or on the behalf of such lunatic, which the guardian of an infant might have entered into for or on the behalf of such infant by virtue of the said last recited Act, if the same had not been repealed.

And be it further Enacted, That when any person who shall have contracted to sell, mortgage, let, divide, exchange or otherwise dispose of any land, shall afterwards become Lunatic, and a specific performance of such contract, either wholly or so far as the same shall remain to be performed, shall have been decreed by the court of Chancery, either before or after such lunacy, it shall be lawful for the committee of the estate of such Lunatic, in the place of such Lunatic, by the direction of the Lord Chancellor, intrusted as aforesaid, to be signified by an order to be made on the petition of the plaintiff or any of the plaintiffs in such suit, to convey such land, in pursuance of such decree, to such person and in such manner as the said Lord Chancellor, intrusted as aforesaid, shall direct; and the purchase money, or so much thereof as remains unpaid, shall be paid to the committee of such Lunatic.

Committee of Lunatics, by direction of the Lord Chancellor, may convey Land in performance of contracts.

And be it further Enacted, That it shall be lawful for the Lord Chancellor, intrusted as aforesaid, to order any land of or to which any person being Lunatic shall be seised or possessed or entitled, to be sold, or charged and incumbered by way of mortgage, or otherwise disposed of, as shall be deemed most expedient for the purpose of raising money for payment of the debts or engagements of such Lunatic, the discharge of any incumbrances on his estates, the costs of applying for and obtaining the commission of lunacy and in opposition thereto, and all proceedings under the said commission, and the costs of such sales, mortgages, charges and incumbrances and other dispositions, or for any of such purposes as aforesaid, as such Lord Chancellor, intrusted as aforesaid, shall respectively direct; and that the monies arising from any such sale, mortgage, charge, incumbrance or other disposition, may be paid, laid out and applied in payment of the debts and engagements of such Lunatic, the discharge of any incumbrances on his estates, the costs of applying for and obtaining the commission of lunacy and in opposition thereto, and all proceedings under the same commission, or incurred under the order of such Lord Chancellor, intrusted as aforesaid, and the costs of such sales, mortgages, charges and incumbrances and other dispositions, in such manner as the said Lord Chancellor, intrusted as aforesaid, shall direct; and to direct the committee of the estate of such person to execute, in the place of such person respectively,

The Lord Chancellor of the United Kingdom, and of Ireland, being intrusted with the Persons and Estates of Lunatics, may order the Freehold and Leasehold Estates of such Persons to be sold or charged by Mortgage for raising Money for the Payment of Debts, &c.
43 G. 3. c. 75. s. 1.
9 G. IV. c. 78. s. 1.

conveyances of the estates so to be sold, mortgaged, incumbered or disposed of, and to do all such acts as shall be necessary to effectuate the same, in such manner as such Lord Chancellor, intrusted as aforesaid, shall direct.

Surplus of Monies
to be of the same
nature as the Estate.
43 G. 3. c. 75. s. 2.
9 G. IV. c. 78. s. 2.

Provided always, and be it further Enacted, That on any sale, mortgage, charge, incumbrance or other disposition which shall be made in pursuance of this Act, the person whose estate shall be sold, mortgaged, charged, incumbered or otherwise disposed of, and his or her heirs, next of kin, devisees, legatees, executors, administrators and assigns, shall have such and the like interest in the surplus which shall remain after answering the purposes aforesaid, of the money raised by such sale, mortgage, charge, incumbrance, or other disposition, as he she or they would have had in the estate by the sale, mortgage, charge, incumbrance or other disposition of which such monies shall be raised, if no such sale, mortgage, charge, incumbrance or other disposition had been made; and such monies shall be of the same nature and character as the estate so sold, mortgaged, charged, incumbered or disposed of; and it shall be lawful for the said Lord Chancellor, intrusted as aforesaid, to make such orders and to direct such acts and deeds to be done and executed as shall be necessary for carrying the aforesaid objects into effect, and for the due application of such surplus monies.

Act shall not sub-
ject Estates of Luna-
tics to Debts, other-
wise than they are
now subject by Law,
but shall be applied
only for the benefit
of Lunatics.
43 G. 3. c. 75. s. 6.

Provided nevertheless, and be it Enacted, That nothing in this Act contained shall extend to subject any part of the estates of any person being Lunatic, to the debts or demands of his creditors, otherwise than as the same are now subject and liable by due course of law, but only to authorize the Lord Chancellor, intrusted as aforesaid, to make order in such cases as are hereinbefore mentioned, when the same shall be deemed just and reasonable, or for the benefit or advantage of such Lunatic.

Surrender and Leases
deemed valid.
24 G. 2. c. 31. s. 4.

And be it further Enacted, That every surrender and lease, agreement, conveyance, mortgage or other disposition respectively granted and accepted, executed and made by virtue of this Act, shall be and deemed as valid and legal to all intents and purposes as if the person by whom or in whose place or on whose behalf the same respectively shall be granted or accepted, executed and made, had been of full age, unmarried or of sane mind, and had granted, accepted, made and executed the same; and every such surrender and lease respectively made and accepted by or on the behalf of a Feme Covert shall be valid, without any fine being levied by her.

Court of Chancery
or Exchequer may
order Dividends of
Stock belonging to
Infants to be applied
for maintenance.
6 G. IV. c. 74.

And be it further Enacted, That it shall be lawful for the Court of Chancery, by an order to be made on the petition of the guardian of any Infant in whose name any stock shall be standing, or any sum of money, by virtue of any Act for paying off any stock, and who shall be beneficially entitled thereto, or if there shall be no guardian, by an order to be made in any cause depending in the said

said Court, to direct all or any part of the dividends due or to become due in respect of such stocks, or any such sum of money, to be paid to any guardian of such Infant, or to any other person, according to the discretion of such Court, for the maintenance and education or otherwise for the benefit of such Infant, such guardian or other person to whom such payment shall be directed to be made, being named in the Order directing such payment; and the receipt of such guardian or other person, for such dividends or sum of money or any part thereof, shall be as effectual as if such Infant had attained the age of twenty-one years, and had signed and given the same.

And be it further Enacted, That where any stock shall be standing in the name of, or shall be vested in any person being Lunatic, who shall be beneficially entitled thereto, or shall be standing in the name of or vested in any person being committee of the estate of a person found Lunatic, in trust for or as part of his property, and such committee shall have died intestate or shall himself become Lunatic, or shall be out of the jurisdiction of or not amenable to the process of the Court of Chancery, or it shall be uncertain whether such committee be living or dead, or such committee shall neglect or refuse to transfer such stock, and to receive and pay over the dividends thereof to a new committee, or as he shall direct, for the space of Fourteen days next after a request in writing for that purpose shall have been made by any new committee, then and in every or any such case it shall be lawful for the Lord Chancellor, intrusted as aforesaid, upon the petition of the committee of the estates of the person being Lunatic, to direct such person as such Lord Chancellor shall think proper to appoint for that purpose, to transfer such stock to or into the name of any new committee or in the name of the Accountant General of the said Court, or otherwise, and also to receive and pay over the dividends thereof, or such sum or sums of money in such manner as such Lord Chancellor shall think proper; and such transfers and payments shall be valid and effectual to all intents and purposes whatsoever.

Stock belonging to Lunatics, may be ordered by the Lord Chancellor to be transferred.
6 G. IV. c. 74.

And be it further Enacted, That where any stock shall be standing in the name of or vested in any person residing out of England, it shall be lawful for the Lord Chancellor, intrusted as aforesaid, upon petition and proof being made to his or their satisfaction that such person has been declared Lunatic, and that his personal estate has been vested in a curator or other person appointed for the management thereof, according to the laws of the place where such person shall reside, to direct any person whom such Lord Chancellor shall think proper to appoint for that purpose, to transfer such stock or any part or parts thereof into the name of any such curator or other such person as aforesaid, or otherwise, and also to receive and pay over the dividends thereof as such Lord Chancellor shall think fit; and that such transfers and payments shall be valid and effectual to all intents and purposes whatsoever.

In cases where Stock shall be standing in the Names of Persons declared Lunatic, residing out of England, Lord Chancellor, &c. may direct the Transfer.
6 G. IV. c. 74.

Costs may be directed to be paid.

And be it further Enacted, That the Court of Chancery or Lord Chancellor, intrusted as aforesaid, may order the costs and expenses of and relating to the petitions, orders, directions, conveyances and transfers to be made in pursuance of this Act, or any of them, to be paid and raised out of or from the lands or stock or the rents or dividends in respect of which the same respectively shall be made, in such manner as the said Court or Lord Chancellor shall think proper.

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Powers given to the Court of Chancery to extend to all the King's dominions, except Scotland.

And be it further Enacted, That the powers and authorities given by this Act to the Court of Chancery in England, shall extend to all land and stock within any of the dominions, plantations and colonies belonging to His Majesty, except Scotland.

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Powers given to the Court of Chancery, also given to the Court of Exchequer.

And be it further Enacted, That the powers and authorities given by this Act to the Court of Chancery, shall and may be exercised in like manner by, and are hereby given to the Court of Exchequer.

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Powers given to the Courts of Chancery and Exchequer, given as to Property in Ireland to the same Courts there.

And be it further Enacted, That the powers and authorities given by this Act to the Courts of Chancery and Exchequer in England, shall and may be exercised in like manner, and are hereby given to the Courts of Chancery and Exchequer in Ireland, with respect to land and stock in Ireland.

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Powers in matters of Lunacy, &c. to extend to all Estates wheresoever situated, except in Scotland and Ireland.

And be it further Enacted, That the powers and authorities given by this Act to the Lord Chancellor of Great Britain, intrusted as aforesaid, shall extend to all land and stock wheresoever, within any of the dominions, plantations and colonies belonging to His Majesty, (except Scotland and Ireland.)

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Powers in matters of Lunacy, &c. to be exercised with respect to Irish Lunatics by the Lord Chancellor, &c. of Ireland.

And be it further Enacted, That the powers and authorities given by this Act to the Lord Chancellor of Great Britain, intrusted as aforesaid, shall and may be exercised in like manner by, and are hereby given to the Lord Chancellor of Ireland, intrusted as aforesaid, with respect to all land and stock in Ireland, but not further or otherwise.

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Inquisitions on Commissions under the Great Seal of Great Britain should be transmitted and entered of Record in Ireland, and acted on there, and vice versa.

9 G. IV. c. 78. s. 3.

AND whereas it is desirable that in some cases Inquisitions taken in England on a commission in the nature of a writ de Lunatico Inquirendo and writs of Supersedeas of any such commission, should be acted upon in Ireland in the same manner as the same may be acted upon in England, and for that purpose shall be placed on record in Ireland; and that inquisitions on a like commission executed in Ireland, and writs of Supersedeas of any such commission shall be acted on in England, and for that purpose shall be placed on record there; BE it therefore Enacted, That in all cases where any person has been or shall be found Lunatic or of unsound mind, and incapable of managing his or her affairs, by any inquisition on a commission in the nature of a writ de Lunatico Inquirendo under

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under the Great Seal of Great Britain, it shall be lawful for the proper officer, by order of the Lord Chancellor of Great Britain, intrusted as aforesaid, to transmit a transcript of the record of such inquisition to the Chancery of Ireland, and such transcript shall thereupon be entered of record, and be as of record there; and in case a writ of Supersedeas of any such commission shall issue, the issue of such writ shall be certified and transmitted and recorded in like manner, and the copies of the record of any such inquisition or Supersedeas so transmitted and entered as of record in the Chancery of Ireland, shall, if the Lord Chancellor of Ireland, intrusted as aforesaid, shall see fit, and so long only as he or they shall so see fit, be acted upon by him or them respectively, and be of the same force and validity, and have the same effect to all intents and purposes in Ireland, as if such inquisition had been taken on a commission under the Great Seal of Ireland, and such writ of Supersedeas had been issued under the Great Seal of Ireland; and that in all cases where any person has been or shall be found Lunatic or of unsound mind, and incapable of managing his or her affairs, by any inquisition on a commission in the nature of a writ de Lunatico Inquirendo under the Great Seal of Ireland, it shall be lawful for the proper officer, by order of the Lord Chancellor of Ireland, intrusted as aforesaid, to transmit a transcript thereof in like manner to the Chancery of England, and such transcript shall thereupon be entered as of record there; and in case a writ of Supersedeas of any such commission shall issue, a transcript thereof shall be certified and transmitted to the Chancery of England, and recorded in like manner; and such entry of record of any such inquisition or supersedeas shall, if the Lord Chancellor of Great Britain, intrusted as aforesaid, shall see fit, and so long as he or they shall so see fit, be acted upon by him or them respectively, and be of the same force and validity, and have the same force and effect as if such inquisition had been taken on a commission under the Great Seal of Great Britain, and such writ of Supersedeas had been issued under the Great Seal of Great Britain.

And be it further Enacted, That the powers and authorities given by this Act to the Lord Chancellor of Great Britain, intrusted as aforesaid, shall and may be exercised in like manner by, and are hereby given to the Lord Keeper or Commissioners of the Great Seal of Great Britain for the time being intrusted as aforesaid; and the powers and authorities given by this Act to the Lord Chancellor of Ireland, intrusted as aforesaid, shall and may be exercised in like manner by, and are hereby given to the Lord Keeper or Commissioners of the Great Seal of Ireland for the time being intrusted as aforesaid.

Powers given to the Lord Chancellor, to extend to Lord Keeper and Commissioners.

Provided always, and be it further Enacted, That in all cases in which orders shall be made in pursuance of this Act, for the transfer of stock, the person to be named in such order for making such transfer shall be some officer of such Company or Society in whose

Who shall be named in the Orders of the Court, for making Transfers.

books such transfer shall be made ; and where such transfer shall be directed to be made in books kept by the Governor and Company of the Bank of England, such officer shall be the Secretary or Deputy Secretary or Accountant General or Deputy Accountant General for the time being of the said Governor and Company.

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Act to be an Indemnity to the Bank, and other Companies.

And be it further Enacted, That this Act shall be and is hereby declared to be a full and complete indemnity and discharge to the Governor and Company of the Bank of England, and all other Companies and Societies, and their officers and servants, for all acts and things done or permitted to be done pursuant thereto ; and that such acts and things shall not be questioned or impeached in any Court of Law or Equity to their prejudice or detriment.

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11 Geo. IV. Sess. 1830.

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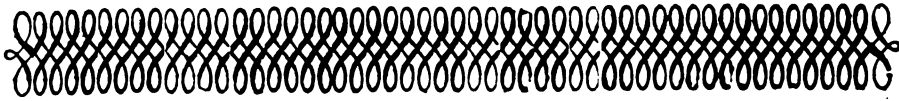
B I L L

For consolidating and amending the Laws
relating to Property belonging to Infants,
Femes Covert, Idiots, Lunatics, and Persons
of unsound Mind.

*Ordered, by The House of Commons, to be Printed,
12 February 1830.*

24 February 1830.

269



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B I L L

[AS AMENDED BY THE COMMITTEE]

For consolidating and amending the Laws relating to
Property belonging to Infants, Femes Covert, Idiots,
Lunatics, and Persons of unsound Mind.

WH E R E A S an Act was passed in the ninth year of the
reign of King *George* the First, intituled, " An Act to
" enable Lords of Manors more easily to recover their Fines, and to
" exempt Infants and Femes Covert from Forfeitures of their Copy-
5 " hold Estates, in particular cases:" AND whereas an Act was passed
in the twenty-ninth year of the reign of King *George* the Second,
intituled, " An Act to enable Infants, Lunatics and Femes Covert,
" to surrender Leases in order to renew the same:" AND whereas an
Act was passed in the eleventh year of the reign of King *George* the
10 Third, intituled, " An Act to enable Lunatics entitled to renew
" Leases, their Guardians and Committees, to accept of Surrenders
" of old Leases, and grant new ones:" AND whereas an Act was
passed in the Parliament of *Ireland*, in the eleventh year of the reign
of Queen *Anne*, intituled, " An Act to enable Guardians and others
15 " to renew Leases for Lives:" AND whereas an Act was passed in
the forty-third year of the reign of King *George* the Third, intituled,
" An Act to authorize the Sale or Mortgage of the Estates of Per-
" sons found Lunatic by Inquisition, in *England* or *Ireland* respec-
" tively, and the granting of Leases of the same:" AND whereas an
20 Act was passed in the forty-seventh year of the reign of King *George*
the Third, intituled, " An Act concerning Common Recoveries suf-
" fered in Copyhold or Customary Courts by Attorney:" AND
whereas an Act was passed in the fifty-ninth year of the reign of
King *George* the Third, intituled, " An Act concerning Common
" Recoveries to be suffered by Attorney in Courts of ancient De-
" mesne, and to explain an Act of His present Majesty, relative to
" the Sale or mortgaging of Estates of Lunatics:" AND whereas an

Preamble:

9 G. 1. c. 29.

29 G. 2. c. 31.

11 G. 3. c. 20.

11 Anne (I.) c. 3.

43 G. 3. c. 75.

47 G. 3. c. 3. s. 2.

59 G. 3. c. 80.

75.

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Act

6 G. IV. c. 74.

Act was passed in the sixth year of the reign of His present Majesty, intituled, " An Act for consolidating and amending the Laws relating to Conveyances and Transfers of Estates and Funds vested in Trustees who are Infants, Idiots, Lunatics, or Trustees of unsound mind, or who cannot be compelled, or refuse to act; and also the Laws relating to Stocks and Securities belonging to Infants, Idiots, Lunatics and Persons of unsound mind:" AND whereas an Act was passed in the ninth year of the reign of His present Majesty, intituled, " An Act for extending the Acts passed in the forty-third and fifty-ninth years of the reign of his late Majesty King George the Third, for the Sale and Mortgage of Estates of Persons found Lunatics by Inquisition taken in *England* and *Ireland*, so as to authorize such Sale and Mortgage for other purposes; and for rendering Inquisitions or Commissions of Lunacy taken in *England* available in *Ireland*, and like Inquisitions taken in *Ireland* available in *England*:"

9 Geo. IV. c. 78.

AND whereas it is expedient the Provisions of the said Acts should be consolidated and amended;

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said recited Acts of the eleventh year of the reign of Queen *Anne*, the ninth year of the reign of King *George* the First, the twenty-ninth year of the reign of King *George* the Second, the eleventh, forty-third, forty-seventh and fifty-ninth years of the reign of King *George* the Third, and the ninth year of the reign of His present Majesty, and also the said recited Act of the sixth year of the reign of His present Majesty, so far as the said last-mentioned Act relates to stocks, funds, annuities and securities belonging beneficially to persons being Infants, Idiots, Lunatics or of unsound mind, shall be and the same are hereby Repealed, (except as to such proceedings under the same as shall have been commenced before the passing of this Act, and which may be proceeded in according to the provisions of the said recited Acts respectively, or according to the provisions of this Act, as shall be thought expedient :) Provided always, That the several Acts repealed by the said last recited Act shall not be revived.

Former Acts repealed.

Rules for the Interpretation of this Act.

AND inasmuch as in order to avoid unnecessary repetition certain words are used in this Act, as describing subjects, some of which, according to their usual sense such words would not embrace for the understanding of the sense attached to them in this Act; BE it further Enacted, That the provisions of this Act shall extend and be understood to extend to and include the several other estates, persons, matters and things hereinafter mentioned; (that is to say) Those relating to Land, to any manor, messuage, tenement, hereditament or real property of whatsoever tenure, and to property of every description transferable otherwise than in books kept by any

any company or society, or any share thereof or charge thereon, or estate or interest therein; those relating to Stock, to any fund, annuity or security transferable in books kept by any company or society, or to any money payable for the discharge or redemption thereof, or any share or interest therein; those relating to Dividends, to interest or other annual produce; those relating to the Bank of *England*, to the *East India* Company, *South Sea* Company, or any other company or society established or to be established; those relating to a Conveyance, to any release, surrender, assignment or other assurance, including all acts deeds and things necessary for making and perfecting the same; those relating to a Transfer, to any assignment, payment or other disposition; and those relating to a Lunatic, to any idiot or person of unsound mind or incapable of managing his affairs; unless there be something in the subject or context repugnant to such construction; and whenever this Act, in describing or referring to any person, or any land, stock, conveyance, lease, recovery, matter or thing, uses the word importing the singular number or the masculine gender only, the same shall be understood to include and shall be applied to several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, and several lands, stocks, conveyances, leases, recoveries, matters or things, as well as one land, stock, conveyance, lease, recovery, matter or thing respectively, unless there be something in the subject or context repugnant to such construction.

And be it further Enacted, That from and after the passing of this Act, where any person being under the age of twenty-one years, or being a Feme Covert or Lunatic, is or shall be entitled by descent or surrender to the use of a last will, or otherwise, to be admitted tenant of any copyhold lands, such person in his or her own proper person, or being a Feme Covert by her attorney, or being an Infant by his guardian or attorney, as the case may require, or being a Lunatic by the committee of his estate, shall come to and appear at one of the three next courts which shall be kept (for the keeping whereof the usual notice shall be given) for the manor whereof such land shall be parcel, and shall there offer himself or herself to the lord or his steward, to be admitted tenant to the said land; to make which appearance and to take which admittance in behalf of such Infant or Lunatic or Feme Covert, such guardian, committee or attorney shall be and is hereby respectively authorized and required.

9 G. 1. c. 29. s. 1.

Infants, Femes Covert and Lunatics, may be admitted to Copyhold Estates by their Guardian, Committee or Attorney.

And be it further Enacted, That it shall be lawful for any Feme Covert, and for any Infant who shall have no guardian, and she and he is hereby empowered, by writing under her or his hand and seal respectively, to appoint an Attorney or Attornies on her or his behalf, for the purpose of appearing and taking such admittance as aforesaid.

Femes Covert, Infants and Lunatics, empowered to appoint Attornies for that purpose.

9 G. 1. c. 29. s. 1.

And be it further Enacted, That in default of such appearance of any Infant, Feme Covert or Lunatic, in his or her own person, or by his

In default of Appearance, the Lord may appoint an Attorney.

9 G. 1. c. 29. s. 1.

his or her guardian, committee or attorney in that behalf, and of acceptance of such admittance as aforesaid, it shall be lawful for the lord of every such manor, or his steward, after such three several courts have been duly holden for such manor, and proclamations in such several courts been regularly made, to appoint, at any subsequent court to be holden for such manor, any fit person to be attorney for every such Infant, Feme Covert or Lunatic, for that purpose only, and by such attorney to admit every such Infant, Feme Covert or Lunatic, to the said land, according to such estate as such Infant, Feme Covert or Lunatic shall be legally entitled to therein, and upon every such admittance to impose and set such fine as might have been legally imposed and set if such Infant had been of full age, or if such Feme Covert had been sole and unmarried, and if such Lunatic had been of sane mind.

Fines, in what manner demandable.
9 G. 1. c. 29. s. 2.

If not paid, &c. the Lord may enter and receive the Profits of the Copyhold till he is satisfied, &c.

The Lord to account yearly ;

To deliver up possession on satisfaction of the Fines.
9 G. 1. c. 29. s. 3.

And be it further Enacted, That upon every such admittance of any Infant, Feme Covert or Lunatic as aforesaid, the fine imposed and set thereupon shall and may be demanded by the bailiff or agent of the lord of such manor, by a note in writing, signed by the lord of such manor or by his steward, to be left with the guardian of such Infant, or such Infant if he have no guardian, or with such Feme Covert or her husband, or with the committee of the estate of such Lunatic, or with the tenant or occupier of the land to which such Infant, Feme Covert or Lunatic shall have been admitted as aforesaid ; and if the fine so imposed and set be not paid or tendered to such lord or his steward within Three months after such demand made, then it shall be lawful for the lord of such manor to enter into and upon the copyhold land to which any such Infant, Feme Covert or Lunatic shall be so admitted, and to hold and enjoy the same, and to receive the rents issues and profits thereof, but without liberty to sell any timber standing thereon for so long time only, and until by such rents issues and profits such lord shall be fully paid and satisfied such fine, together with all reasonable costs and charges which such lord shall have been put unto in levying and raising the same, and in obtaining the possession of such copyhold land, although such Infant, Feme Covert or Lunatic shall happen to die before such fine and fines and the costs and charges aforesaid shall be raised and collected ; of all which rents issues and profits so to be received by such lord of such manor, or his steward, bailiff or servant, upon the occasion aforesaid, such lord shall yearly and every year, upon demand to be made by the person who shall be entitled to the surplus of the said rents and profits, over and above what will pay and satisfy such fine and costs and charges, or by the person who shall be then entitled to such copyhold land, give and render a just and true account, and shall pay the same surplus, if any, to such person as shall be entitled to the same.

And be it further Enacted, That as soon as such fine and the costs charges and expenses aforesaid shall be fully paid and satisfied, or

or if after such seizure and entry of and upon such copyhold land for the purposes aforesaid, such fine and the costs and charges aforesaid shall be lawfully tendered and offered to be paid and satisfied to the lord of such manor, then and in any of the said cases it shall be lawful for such Infant, Feme Covert, Lunatic or other person entitled thereto, or the guardian of such Infant, the husband of such Feme Covert, or the committee of such Lunatic, to enter upon and take possession of and hold the said copyhold land according to the estate or interest such Infant, Feme Covert or Lunatic shall be lawfully entitled to therein, and the lord of such manor shall and is hereby required in any of the said cases to deliver possession thereof accordingly ; and if such lord, after such fine and the costs and charges aforesaid shall be fully paid and satisfied, or after the same shall have been tendered or offered to be paid as aforesaid, shall refuse to deliver the possession of the said copyhold land as aforesaid, he or they shall be liable to and shall make satisfaction to the person or persons so kept out of possession, for all the damages that he or she shall thereby sustain, and all the costs and charges that he or she shall be put unto for the recovery thereof.

And be it further Enacted, That where any Infant, Feme Covert or Lunatic shall be admitted to any copyhold land, if the guardian of such Infant, or husband of such Feme Covert, or committee of such Lunatic shall pay to the lord of any manor the fine legally imposed and set upon such admittance, and the costs and charges which such lord of such manor shall have been put unto as aforesaid, then it shall be lawful for every guardian of such Infant, or husband of such Feme Covert, or committee of such Lunatic, his executors and administrators, to enter into and to hold and enjoy the said land to which such Infant, Feme Covert or Lunatic shall have been so admitted, and receive and take the rents issues and profits thereof to his and their own use, until thereby such guardian of such Infant, or husband of such Feme Covert, or committee of such Lunatic, his executors and administrators, shall be fully satisfied and paid all and every such sum and sums of money as he shall respectively pay and disburse upon the account aforesaid, notwithstanding the death of such Infants, Femes Covert or Lunatic shall happen before such sum or sums of money so expended shall or may be so raised and reimbursed.

Guardians or Husbands, or Committees paying Fines, may reimburse themselves out of the Rents of the Copyhold.

9 G. 1. c. 29. s. 4.

Provided always, and be it further Enacted, That from and after the passing of this Act, no Infant, Feme Covert or Lunatic shall forfeit any copyhold land for his or her neglect or refusal to come to any court to be kept for any manor whereof such land is parcel, and to be admitted thereto, nor for the omission, denial or refusal of any such Infant, Feme Covert or Lunatic, to pay any fine imposed or set upon his or her admittance to any such land.

No Forfeiture to be incurred by Infant, &c. for not appearing or refusing to pay Fines.

9 G. 1. c. 29. s. 5.

Provided nevertheless, and be it further Enacted, That if the fine imposed in any of the cases hereinbefore mentioned shall not be warranted by the custom of the manor, or shall be unlawful, then

Fines not warranted by custom, &c. may be controverted.

9 G. 1. c. 29. s. 6.

such Infant, Feme Covert or Lunatic shall be at liberty to controvert the legality of such fine, in such manner as he or she might have done if this Act had not been made.

Persons may appoint Attornies, &c. for surrendering Copy-holds and other Lands, &c. of which common Recoveries are intended to be suffered, &c.

47 G. 3. sess. 2.

c. 8. s. 1.

59 G. 3. c. 80.

And be it further Enacted, That it shall be lawful for any person, not being under coverture, and for every Feme Covert (such Feme Covert being solely and secretly examined by the lord of the manor whereof the land of which a common recovery is proposed to be suffered shall be holden by copy of court roll, or in ancient demesne or otherwise, or by his steward, or by the deputy of such steward) to appoint any person to be his or her attorney, for the purpose of surrendering the land of which a common recovery shall be proposed to be suffered, to the use of any person, to make him tenant to the plaint, and also to appoint any other person to appear for the person so appointing as vouchee, and to enter into the usual warranty, and to do all other lawful and necessary acts for the suffering and perfecting of such common recovery respectively, and to direct the demandant in such common recovery respectively to surrender the tenements so recovered, when or after such recovery shall be suffered and perfected, to such uses as shall be declared in the instrument by which such attorney shall be respectively appointed; and that the surrender and common recovery which shall be had acknowledged and suffered as aforesaid, shall have the like effect, but no other, as such surrender and common recovery would have had if the party who shall acknowledge such surrender, and suffer such common recovery by attorney, and give such directions as aforesaid, had appeared in court in his or her person, and acknowledged the said surrender, and suffered the same recovery, and had joined in the surrender to be made by such demandant.

Guardians, &c. of Minors, &c. in order to the surrender and renewal of Leases, may apply to the Court of Chancery, &c. and by Order may surrender by Deed such Leases, and renew the same, &c.

29 G. 2. c. 31. s. 1.

And be it further Enacted, That in all cases where any person, being under the age of twenty-one years, or a Feme Covert, is or shall become entitled to any lease or leases made or granted or to be made or granted for the life or lives of one or more person or persons, or for any term of years, either absolute or determinable upon the death of one or more person or persons, or otherwise, it shall be lawful for such person under the age of twenty-one years, or for his or her guardian or other person on his behalf, and for such Feme Covert or any person on her behalf, to apply to the Court of Chancery in *England*, the Courts of equity of the counties palatine of *Chester*, *Lancaster* and *Durham*, or the Courts of Great Session of the principality of *Wales* respectively, as to land within their respective jurisdiction, by petition or motion in a summary way, and by the order and direction of the said courts respectively such Infant or Feme Covert, or his guardian, or any person appointed in the place of such Infant or Feme Covert by the said Courts respectively, shall and may be enabled from time to time, by deed or deeds, to surrender such lease or leases, and accept and take in the place and for the benefit of such person under the age of twenty-one years, or Feme Covert, one or more new lease or leases of the premises

premises comprised in such lease surrendered by virtue of this Act, for and during such number of lives, or for such term or terms of years determinable upon such number of lives, or for such term or terms of years absolute, as was or were mentioned or contained in the lease or leases so surrendered at the making thereof respectively, or otherwise, as the said courts shall respectively direct.

And be it further Enacted, That in all cases where any person, being Lunatic, shall become entitled to any lease or leases made or granted or to be made or granted for the life or lives of one or more person or persons, or for any term of years, either absolute or determinable upon the death of one or more person or persons, or otherwise, it shall be lawful for the committee of the estate of such person to apply to the Lord Chancellor of *Great Britain*, being intrusted by virtue of the King's sign manual with the care and commitment of the custody of the persons and estates of persons found Idiot, Lunatic or of unsound mind, by petition or motion in a summary way; and by the order and direction of the said Lord Chancellor intrusted as aforesaid, such committee shall and may be enabled from time to time, by deed or deeds, in the place of such Lunatic, to surrender such lease or leases, and accept and take, in the name and for the benefit of such Lunatic, one or more new lease or leases of the premises comprised in such lease or leases surrendered by virtue of this Act, for and during such number of lives, or for such term or terms of years, absolute or determinable as aforesaid, as was or were mentioned or contained in the lease or leases so surrendered at the making thereof respectively, or otherwise, as the said Lord Chancellor, intrusted as aforesaid, shall direct.

Committees of Lunatics, in order to the surrender and renewal of Leases, may apply to the Lord Chancellor, and by Order may surrender by Deed such Leases, and renew the same, &c.
29 G. 2. c. 31. s. 1.

And be it further Enacted, That every sum of money and other consideration paid by any guardian, trustee, committee or other person, as a fine, premium or income, or in the nature of a fine, premium or income, for the renewal of any such lease, and all reasonable charges incident thereto, shall be paid out of the estate or effects of the Infant or Lunatic for whose benefit the lease shall be renewed, or shall be a charge upon the leasehold premises, together with interest for the same, as the said Courts and Lord Chancellor intrusted as aforesaid respectively shall direct and determine; and as to leases to be made upon surrenders by Females Covert, unless the fine or consideration of such lease and the reasonable charges shall be otherwise paid or secured, the same, together with interest, shall be a charge upon such leasehold premises, for the benefit of the person who shall advance the same.

Charges attending renewal, to be charged on the Estates, and as Court shall direct.
29 G. 2. c. 31. s. 2.

And be it further Enacted, That every lease to be renewed as aforesaid shall operate and be to the same uses, and be liable to the same trusts, charges, incumbrances, dispositions, devices and conditions, as the lease to be from time to time surrendered as aforesaid was or would have been subject to in case such surrender had not been made.

New Leases to be to same uses.
29 G. 2. c. 31. s. 3

Infants empowered,
by direction of
Court of Chancery,
to grant renewals
of Leases.

11 G. 3. c. 20. s. 1.
11 Anne (I.) c. 3.
s. 1.

And be it further Enacted, That where any person, being under the age of twenty-one years, or a Feme Covert, might, in pursuance of any covenant or agreement, if not under disability, be compelled to renew any lease made or to be made for the life or lives of one or more person or persons, or for any term or number of years absolute 5
or determinable on the death of one or more person or persons, it shall be lawful to and for such Infant, or his guardian in the name of such Infant, or such Feme Covert, by the direction of the Court of Chancery, to be signified by an order to be made in a summary way upon the petition of such Infant or his guardian, or of such Feme Covert, or 10
of any person entitled to such renewal, from time to time to accept of a surrender of such lease, and to make and execute a new lease of the premises comprised in such lease, for and during such number of lives, or for such term or terms determinable upon such number of lives, or for such term or terms of years absolute, as was 15
or were mentioned in the lease so surrendered at the making thereof, or otherwise, as the Court by such order shall direct.

Court of Chancery
may grant Leases
of any Lands belong-
ing to Infants when
it is to the benefit
of the Estate.

And be it further Enacted, That where any person, being an Infant under the age of twenty-one years, is or shall be seised or possessed of or entitled to any land in fee or in tail, or to any lease- 20
hold land for an absolute interest, and it shall appear to the Court of Chancery to be for the benefit of such person that a Lease or under-lease should be made of such estates for terms of years, for encour-aging the erection of buildings thereon, or for repairing buildings 25
actually being thereon, or the working of mines, or otherwise improv- ing the same, or for farming or other purposes, it shall be lawful for such Infant, or his guardian in the name of such Infant, by the direction of the Court of Chancery, to be signified by an order to be made in a summary way, upon the petition of such Infant or his guardian, to make such lease of the land of such persons respec- 30
tively, or any part thereof, according to his or her interest therein respectively, and to the nature of the tenure of such estates respec- tively, for such term or terms of years, and subject to such rents and covenants as the said Court of Chancery shall direct; but in no such case shall any fine or premium be taken, and in every such 35
case the best rent that can be obtained, regard being had to the nature of the lease, shall be reserved upon such lease; and the leases and covenants and provisions therein shall be settled and approved of by a Master of the said Court, and a counterpart of every such lease shall be executed by the lessee or lessees therein to be named, and 40
such counterparts shall be deposited for safe custody in the Master's office, until such Infant shall attain twenty-one, but with liberty to proper parties to have the use thereof, if required, in the meantime, for the purpose of enforcing any of the covenants therein contained.

If Persons bound to
renew are out of the
Jurisdiction of the
Court, renewals
to be by a Person
to be appointed by
the Court of Chan-
cery.

11 Anne (I.) c. 3. s. 2.

And be it Enacted, That where any person, who in pursuance of any covenant or agreement in writing, might, if within the juris- diction and amenable to the process of the Court of Chancery, be compelled to execute any lease by way of renewal, shall not be within

212

within the jurisdiction or not amenable to the process of the said Court, it shall be lawful to and for the said Court of Chancery, by an order to be made upon the petition of any person or any of the persons entitled to such renewal (whether such person be or be not under any disability) to direct such person as the said Court shall think proper to appoint for that purpose, to accept a surrender of the subsisting lease, and make and execute a new lease in the name of the person who ought to have renewed the same; and such deed executed by the person to be appointed as aforesaid shall be as valid as if the person in whose name the same shall be made had executed the same, and had been alive and not under any disability; but in every such case it shall be in the discretion of the said Court of Chancery, if under the circumstances it shall seem requisite, to direct a bill to be filed to establish the right of the party seeking the renewal, and not to make the order for such new lease unless by the decree to be made in such cause, or until after such decree shall have been made.

To be in the Name of the Person who ought to have renewed.

And be it further Enacted, That where any person, being Lunatic, is or shall be entitled or has a right, or in pursuance of any covenant or agreement might, if not under disability, be compelled to renew any lease made or to be made for the life or lives of one or more person or persons, or for any term or number of years absolute or determinable on the death of one or more person or persons, or otherwise, it shall be lawful to and for the committee of the estate of such Lunatic, in the name of such Lunatic, by the direction of the Lord Chancellor intrusted as aforesaid, to be signified by an order to be made in a summary way upon the petition of such committee, or of any person entitled to such renewal, from time to time to accept of a surrender of such lease, and to make and execute to any person a new lease of the premises comprised in such lease to be surrendered by virtue of this Act, for and during such number of lives, or for such term or terms of years determinable upon such number of lives, or for such term or terms of years absolute, as were mentioned or contained in such lease so surrendered at the making thereof, or otherwise, as the Lord Chancellor, intrusted as aforesaid, by such order shall direct; and this provision shall extend as well to cases where the Lunatic shall not be compellable to renew; but it shall be for his benefit to do so as to cases where a renewal might be effectually enforced against the Lunatic, if of sound mind.

Committees of Lunatics empowered by the direction of the Lord Chancellor to renew Leases.
11 G. 3. c. 20. s. 1.

May accept of Surrenders, and make new Leases.

Provided always, and be it further Enacted, That no renewed lease shall be executed by virtue of this Act, in pursuance of any covenant or agreement, unless the fine (if any) or such other sum or sums of money (if any) as ought to be paid on such renewal, and such things (if any) as ought to be performed in pursuance of such covenant or agreement by the lessee or tenant, be first paid and performed; and counterparts of every renewed lease to be executed by virtue of this Act, shall be duly executed by the lessee.

Fines to be paid before Renewals, and Counterparts to be executed.
11 Anne (I.) c. 3. s. 2.

Premiums how to
be paid.
4 G. 3. c. 20. s. 3.

On death of Luna-
tic, Money arising
by such Fines to be
considered Real
Estate, unless, &c.

The Irish Act,
11 Anne, c. 3.
continued unaltered.

And be it further Enacted, That all fines premiums and sums of money which shall be had received or paid for or on account of the renewal of any lease, after a deduction of all necessary incidental charges and expenses, shall be paid, if such renewal shall be made by or in the name of an Infant, to his guardian, and be applied and disposed of for the benefit of such Infant, in such manner as the said court shall direct; if such renewal shall be made by a Feme Covert, to such person or in such manner as the court shall direct for her benefit; if such renewal shall be made in the name of any person out of jurisdiction or not amenable as aforesaid, to such person or in such manner, or into the court of Chancery to such account, and to be applied and disposed of as the said court shall direct; and if such renewal shall be made in the name of a Lunatic, to the committee of the estate of such Lunatic, and be applied and disposed of for the benefit of such Lunatic, in such manner as the Lord Chancellor, intrusted as aforesaid, shall direct; but upon the death of such Lunatic, all such sum and sums of money as shall arise by such fines or premiums, or so much thereof as shall remain unapplied for the benefit of such Lunatic at his death, shall, as between the representatives of the real and personal estates of such Lunatic, be considered as real estate, unless such Lunatic shall be tenant for life only, and then the same shall be considered as personal estate.

AND whereas by the said Act passed in the Parliament of *Ireland* in the eleventh year of the reign of Queen *Anne*, after reciting that several persons had theretofore made and thereafter might make leases for one or more life or lives, of several lands tenements and hereditaments in the said then Kingdom of *Ireland*, with covenants and agreements in such leases for renewing the same from time to time on the tender and payment of some fine certain on the death of any life or lives in such lease or leases mentioned, by adding such one or more life or lives, on failure of the life or lives in being, within the respective times in such agreements and covenants mentioned, as the several lessee or lessees in such lease or leases should nominate; and also reciting, that through one pretence or other, on the fall or failure of any life or lives in being, the lessee or lessees were greatly delayed before he or they could obtain any renewal according to the covenants and agreements in their leases, to their very great discouragement; For remedy whereof it was Enacted, That if it should so happen that any person or persons who, in pursuance of such agreements for renewal in such leases contained or to be contained, ought to make such new lease or leases as had been or should be agreed to be made, should be under any disability so to do, by reason of infancy, coverture, or *non compos mentis*, that then and in every such case (that is to say) in case of disability by reason of infancy or being under age, by the direction of the High Court of Chancery or the Court of Exchequer, signified by an order made upon hearing all parties concerned on the petition of such lessee or lessees, it should and might be lawful to and for the guardian or guardians of such infant or person under age, upon such lessee or lessees

279

lessees tendering the fine or fines agreed on in such lease, and performing all such matters and things as by the said covenants and agreements ought to be performed on his or their part and behalf previous to such renewal, in such manner as should by such order be directed, to renew such lease or leases by adding such new life or lives as should be named by the said lessee or lessees according to the said covenants and agreements, and such guardian or guardians were thereby required to renew such lease or leases by putting in such new life or lives as should be so named unto them as aforesaid, while the infant or minor of such guardian or guardians should be under such disability of infancy or under age: And it was further enacted, That in all cases where the person or persons who by covenant or agreement were obliged to make such renewals, were or should be disabled to renew by reason of being under coverture, beyond the seas, or *non compos mentis*, it should and might be lawful to and for the Lord Chancellor or Commissioner or Commissioners of the Great Seal of the said then Kingdom of *Ireland* for the time being, upon petition or complaint made to him or them in the High Court of Chancery, upon payment of the fine and such other sum or sums of money as ought to be paid upon such renewal for the use of the person or persons entitled to the same, and upon the lessee or lessees doing and performing all and every such matters and things as by the said covenants or agreements in the said lease or leases ought to be done or performed by him or them previous to such renewal, to order or appoint such renewal or renewals to be made by one of the masters of the said Court of Chancery, to be nominated and appointed by the said Lord Chancellor or Commissioner or Commissioners of the Great Seal for the time being; and such master so nominated and appointed, and also such guardian and guardians as aforesaid, should make and execute such deed of renewal in the name of the person or persons who ought to have renewed the same, which deed or deeds of renewal so made and executed by the said guardian or guardians, master or masters, counterparts thereof being duly perfected by the lessee or lessees for the use and benefit of the person or persons having the reversion and inheritance of such lands tenements or hereditaments comprised in such deed or deeds, should be as good and effectual in law and equity, to all intents and purposes, as if the person or persons under age had been of full age and had executed the same, or as if the other person or persons under such disability had not been so disabled and had executed the same; provided such person or persons under age or under such disability as aforesaid were at the time of the renewal of such lease compellable in law or equity to make such renewal: AND whereas it is expedient that the provisions of the said recited Act which have been so long in force in *Ireland* should remain unaltered; BE it therefore further Enacted, That the clauses and provisions contained in the said Act shall be and continue in force in the same manner to all intents and purposes as if the said clauses and provisions, and every part thereof, had been repeated and re-enacted in this Act; and none of the other provisions in this Act contained,

Lord Chancellor
may order renewal
to be made by a
Master in Chancery,
when persons are
under disability.

Provisions of Act
not to extend to
Land in Ireland.

for authorizing any surrenders to be accepted or any new lease to be made or executed for or on the behalf of any person who, in pursuance of any covenant or agreement for renewal in any lease contained or to be contained, ought to make such new lease or leases, shall extend or be construed to extend to land in *Ireland*.

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The power of leasing Lands, &c. of Lunatics having only a limited Estate therein, may be executed by the Committee of the Estate of such Person, under the direction of the Chancellor.

43 G. 3. c. 75. s. 3.

And be it further Enacted, That where any person, being Lunatic, is or shall be seised or possessed of any land, either for life or for some other estate, with power of granting leases and taking fines, reserving small rents on such leases for one two or three lives in possession or reversion, or for some number of years determinable upon lives, or for any term of years absolutely, such power of leasing which is or shall be vested in such person, being Lunatic and having a limited estate only, shall and may be executed by the Committee of the estate of such person, under the direction and order of the Lord Chancellor, intrusted as aforesaid.

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Where Lunatics are seised of Freehold or Copyhold Estates, in fee or in tail, and an absolute Interest in Leasehold Estates, the Chancellor may direct the Committee of the Estate to make Leases thereof.

49 G. 3. c. 75. s. 4.

And be it further Enacted, That where any person, being Lunatic, is or shall be seised or possessed of or entitled to any land in fee or in tail, or to any leasehold land for an absolute interest, and it shall appear to the Lord Chancellor, intrusted as aforesaid, to be for the benefit of such person that a lease or under-lease should be made of such estates for terms of years, for encouraging the erection of buildings therein, or for repairing buildings actually being thereon, or otherwise improving the same, or for farming or other purposes, it shall be lawful for the Lord Chancellor, intrusted as aforesaid, to order and direct the Committee of the estate of such Lunatic to make such lease of the land of such persons respectively, or any part thereof, according to his or her interest therein respectively and to the nature of the tenure of such estates respectively, for such term or terms of years, and subject to such rents and covenants as the Lord Chancellor, intrusted as aforesaid, shall direct.

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1 Geo. 1. c. 10. s. 9. Agreements respecting the patronage of Livings for the purposes of Queen Anne's Bounty may be made by Guardians, with the approbation of the Court of Chancery, and by Committees, with the approbation of the Lord Chancellor.

AND whereas by an Act passed in the first year of the reign of King *George* the First, intituled, "An Act for making more effectual her late Majesty's gracious intentions for augmenting the maintenance of the Poor Clergy," it was enacted, That the agreements of guardians for and on behalf of Infants or Idiots under their guardianship, should be as good and effectual to all intents and purposes as if the said Infants or Idiots had been of full age and of sound mind, and had themselves entered into such agreements: AND whereas it is desirable that the said powers should be exercised under proper control, and that the same should be extended to all persons against whom a commission of lunacy shall have issued; BE it further Enacted, That so much of the said Act of the first year of the reign of King *George* the First, as is hereinbefore recited, shall be and the same is hereby repealed; and be it further Enacted, That the guardian of any infant, with the approbation of the Court of Chancery, to be signified by an order

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order to be made on the petition of such guardian in a summary way, may enter into any agreement for or on behalf of such infant, which such guardian might have entered into by virtue of the said last recited Act, if the same had not been repealed; and the committee of the estate of any lunatic, with the approbation of the Lord Chancellor, intrusted as aforesaid, to be signified by an order to be made in the petition of such committee in a summary way, may enter into any agreement for or on the behalf of such lunatic, which the guardian of an infant might have entered into for or on the behalf of such infant by virtue of the said last recited Act, if the same had not been repealed.

And be it further Enacted, That when any person who shall have contracted to sell, mortgage, let, divide, exchange or otherwise dispose of any land, shall afterwards become Lunatic, and a specific performance of such contract, either wholly or so far as the same shall remain to be performed, shall have been decreed by the court of Chancery, either before or after such lunacy, it shall be lawful for the committee of the estate of such Lunatic, in the place of such Lunatic, by the direction of the Lord Chancellor, intrusted as aforesaid, to be signified by an order to be made on the petition of the plaintiff or any of the plaintiffs in such suit, to convey such land, in pursuance of such decree, to such person and in such manner as the said Lord Chancellor, intrusted as aforesaid, shall direct; and the purchase money, or so much thereof as remains unpaid, shall be paid to the committee of such Lunatic.

Committee of Lunatics, by direction of the Lord Chancellor, may convey Land in performance of contracts.

And be it further Enacted, That it shall be lawful for the Lord Chancellor, intrusted as aforesaid, to order any land of or to which any person being Lunatic shall be seised or possessed or entitled, to be sold, or charged and incumbered by way of mortgage, or otherwise disposed of, as shall be deemed most expedient for the purpose of raising money for payment of the debts or engagements of such Lunatic, the discharge of any incumbrances on his estates, the costs of applying for and obtaining the commission of lunacy and in opposition thereto, and all proceedings under the said commission, and the costs of such sales, mortgages, charges and incumbrances and other dispositions, or for any of such purposes as aforesaid, as such Lord Chancellor, intrusted as aforesaid, shall respectively direct; and that the monies arising from any such sale, mortgage, charge, incumbrance or other disposition, may be paid, laid out and applied in payment of the debts and engagements of such Lunatic, the discharge of any incumbrances on his estates, the costs of applying for and obtaining the commission of lunacy and in opposition thereto, and all proceedings under the same commission, or incurred under the order of such Lord Chancellor, intrusted as aforesaid, and the costs of such sales, mortgages, charges and incumbrances and other dispositions, in such manner as the said Lord Chancellor, intrusted as aforesaid, shall direct; and to direct the committee of the estate of such person to execute, in the place of such person respectively,

The Lord Chancellor of the United Kingdom, and of Ireland, being intrusted with the Persons and Estates of Lunatics, may order the Freehold and Leasehold Estates of such Persons to be sold or charged by Mortgage for raising Money for the Payment of Debts, &c. 43 G. 3. c. 75. s. 1. 9 G. IV. c. 78. s. 1.

conveyances of the estates so to be sold, mortgaged, incumbered or disposed of, and to do all such acts as shall be necessary to effectuate the same, in such manner as such Lord Chancellor, intrusted as aforesaid, shall direct.

Surplus of Monies
to be of the same
nature as the Estate.
43 G. 3. c. 75. s. 2.
9 G. IV. c. 78. s. 2.

Provided always, and be it further Enacted, That on any sale, mortgage, charge, incumbrance or other disposition which shall be made in pursuance of this Act, the person whose estate shall be sold, mortgaged, charged, incumbered or otherwise disposed of, and his or her heirs, next of kin, devisees, legatees, executors, administrators and assigns, shall have such and the like interest in the surplus which shall remain after answering the purposes aforesaid, of the money raised by such sale, mortgage, charge, incumbrance, or other disposition, as he she or they would have had in the estate by the sale, mortgage, charge, incumbrance or other disposition of which such monies shall be raised, if no such sale, mortgage, charge, incumbrance or other disposition had been made; and such monies shall be of the same nature and character as the estate so sold, mortgaged, charged, incumbered or disposed of; and it shall be lawful for the said Lord Chancellor, intrusted as aforesaid, to make such orders and to direct such acts and deeds to be done and executed as shall be necessary for carrying the aforesaid objects into effect, and for the due application of such surplus monies.

Act shall not sub-
ject Estates of Lunatics to Debts, otherwise than they are now subject by Law, but shall be applied only for the benefit of Lunatics.
43 G. 3. c. 75. s. 6.

Provided nevertheless, and be it Enacted, That nothing in this Act contained shall extend to subject any part of the estates of any person being Lunatic, to the debts or demands of his creditors, otherwise than as the same are now subject and liable by due course of law, but only to authorize the Lord Chancellor, intrusted as aforesaid, to make order in such cases as are hereinbefore mentioned, when the same shall be deemed just and reasonable, or for the benefit or advantage of such Lunatic.

Surrender and Leases
deemed valid.
24 G. 2. c. 31. s. 4.

And be it further Enacted, That every surrender and lease, agreement, conveyance, mortgage or other disposition respectively granted and accepted, executed and made by virtue of this Act, shall be and deemed as valid and legal to all intents and purposes as if the person by whom or in whose place or on whose behalf the same respectively shall be granted or accepted, executed and made, had been of full age, unmarried or of sane mind, and had granted, accepted, made and executed the same; and every such surrender and lease respectively made and accepted by or on the behalf of a Feme Covert shall be valid, without any fine being levied by her.

Court of Chancery
or Exchequer may
order Dividends of
Stock belonging to
Infants to be applied
for maintenance.
6 G. IV. c. 74.

And be it further Enacted, That it shall be lawful for the Court of Chancery, by an order to be made on the petition of the guardian of any Infant in whose name any stock shall be standing, or any sum of money, by virtue of any Act for paying off any stock, and who shall be beneficially entitled thereto, or if there shall be no guardian, by an order to be made in any cause depending in the said

said Court, to direct all or any part of the dividends due or to become due in respect of such stocks, or any such sum of money, to be paid to any guardian of such Infant, or to any other person, according to the discretion of such Court, for the maintenance and education or otherwise for the benefit of such Infant, such guardian or other person to whom such payment shall be directed to be made, being named in the Order directing such payment; and the receipt of such guardian or other person, for such dividends or sum of money or any part thereof, shall be as effectual as if such Infant had attained the age of twenty-one years, and had signed and given the same.

And be it further Enacted, That where any stock shall be standing in the name of, or shall be vested in any person being Lunatic, who shall be beneficially entitled thereto, or shall be standing in the name of or vested in any person being committee of the estate of a person found Lunatic, in trust for or as part of his property, and such committee shall have died intestate or shall himself become Lunatic, or shall be out of the jurisdiction of or not amenable to the process of the Court of Chancery, or it shall be uncertain whether such committee be living or dead, or such committee shall neglect or refuse to transfer such stock, and to receive and pay over the dividends thereof to a new committee, or as he shall direct, for the space of Fourteen days next after a request in writing for that purpose shall have been made by any new committee, then and in every or any such case it shall be lawful for the Lord Chancellor, intrusted as aforesaid, upon the petition of the committee of the estates of the person being Lunatic, to direct such person as such Lord Chancellor shall think proper to appoint for that purpose, to transfer such stock to or into the name of any new committee or in the name of the Accountant General of the said Court, or otherwise, and also to receive and pay over the dividends thereof, or such sum or sums of money in such manner as such Lord Chancellor shall think proper; and such transfers and payments shall be valid and effectual to all intents and purposes whatsoever.

Stock belonging to Lunatics, may be ordered by the Lord Chancellor to be transferred.
6 G. IV. c. 74.

And be it further Enacted, That where any stock shall be standing in the name of or vested in any person residing out of England, it shall be lawful for the Lord Chancellor, intrusted as aforesaid, upon petition and proof being made to his or their satisfaction that such person has been declared Lunatic, and that his personal estate has been vested in a curator or other person appointed for the management thereof, according to the laws of the place where such person shall reside, to direct any person whom such Lord Chancellor shall think proper to appoint for that purpose, to transfer such stock or any part or parts thereof into the name of any such curator or other such person as aforesaid, or otherwise, and also to receive and pay over the dividends thereof as such Lord Chancellor shall think fit; and that such transfers and payments shall be valid and effectual to all intents and purposes whatsoever.

In cases where Stock shall be standing in the Names of Persons declared Lunatic, residing out of England, Lord Chancellor, &c. may direct the Transfer.
6 G. IV. c. 74.

Costs may be directed to be paid.

And be it further Enacted, That the Court of Chancery or Lord Chancellor, intrusted as aforesaid, may order the costs and expenses of and relating to the petitions, orders, directions, conveyances and transfers to be made in pursuance of this Act, or any of them, to be paid and raised out of or from the lands or stock or the rents or dividends in respect of which the same respectively shall be made, in such manner as the said Court or Lord Chancellor shall think proper. 5

Powers given to the Court of Chancery to extend to all the King's dominions, except Scotland.

And be it further Enacted, That the powers and authorities given by this Act to the Court of Chancery in *England*, shall extend to all land and stock within any of the dominions, plantations and colonies belonging to His Majesty, except *Scotland*. 10

Powers given to the Court of Chancery, also given to the Court of Exchequer.

And be it further Enacted, That the powers and authorities given by this Act to the Court of Chancery, shall and may be exercised in like manner by, and are hereby given to the Court of Exchequer. 15

Powers given to the Courts of Chancery and Exchequer, given as to Property in Ireland to the same Courts there.

And be it further Enacted, That the powers and authorities given by this Act to the Courts of Chancery and Exchequer in *England*, shall and may be exercised in like manner, and are hereby given to the Courts of Chancery and Exchequer in *Ireland*, with respect to land and stock in *Ireland*. 20

Powers in matters of Lunacy, &c. to extend to all Estates wheresoever situated, except in Scotland and Ireland.

And be it further Enacted, That the powers and authorities given by this Act to the Lord Chancellor of *Great Britain*, intrusted as aforesaid, shall extend to all land and stock wheresoever, within any of the dominions, plantations and colonies belonging to His Majesty, (except *Scotland* and *Ireland*) 25

Powers in matters of Lunacy, &c. to be exercised with respect to Irish Lunatics by the Lord Chancellor, &c. of Ireland.

And be it further Enacted, That the powers and authorities given by this Act to the Lord Chancellor of *Great Britain*, intrusted as aforesaid, shall and may be exercised in like manner by, and are hereby given to the Lord Chancellor of *Ireland*, intrusted as aforesaid, with respect to all land and stock in *Ireland*, but not further or otherwise. 30

Inquisitions on Commissions under the Great Seal of Great Britain should be transmitted and entered of Record in Ireland, and acted on there, and vice versa.
9 G. IV. c. 78. s. 3.

AND whereas it is desirable that in some cases Inquisitions taken in *England* on a commission in the nature of a writ *de Lunatico Inquirendo* and writs of Supersedeas of any such commission, should be acted upon in *Ireland* in the same manner as the same may be acted upon in *England*, and for that purpose shall be placed on record in *Ireland*; and that inquisitions on a like commission executed in *Ireland*, and writs of Supersedeas of any such commission shall be acted on in *England*, and for that purpose shall be placed on record there; BE it therefore Enacted, That in all cases where any person has been or shall be found Lunatic or of unsound mind, and incapable of managing his or her affairs, by any inquisition on a commission in the nature of a writ *de Lunatico Inquirendo* under 35 40

under the Great Seal of *Great Britain*, it shall be lawful for the proper officer, by order of the Lord Chancellor of *Great Britain*, intrusted as aforesaid, to transmit a transcript of the record of such inquisition to the Chancery of *Ireland*, and such transcript shall thereupon be entered of record, and be as of record there; and in case a writ of Supersedeas of any such commission shall issue, the issue of such writ shall be certified and transmitted and recorded in like manner, and the copies of the record of any such inquisition or Supersedeas so transmitted and entered as of record in the Chancery of *Ireland*, shall, if the Lord Chancellor of *Ireland*, intrusted as aforesaid, shall see fit, and so long only as he or they shall so see fit, be acted upon by him or them respectively, and be of the same force and validity, and have the same effect to all intents and purposes in *Ireland*, as if such inquisition had been taken on a commission under the Great Seal of *Ireland*, and such writ of Supersedeas had been issued under the Great Seal of *Ireland*; and that in all cases where any person has been or shall be found Lunatic or of unsound mind, and incapable of managing his or her affairs, by any inquisition on a commission in the nature of a writ *de Lunatico Inquirendo* under the Great Seal of *Ireland*, it shall be lawful for the proper officer, by order of the Lord Chancellor of *Ireland*, intrusted as aforesaid, to transmit a transcript thereof in like manner to the Chancery of *England*, and such transcript shall thereupon be entered as of record there; and in case a writ of *Supersedeas* of any such commission shall issue, a transcript thereof shall be certified and transmitted to the Chancery of *England*, and recorded in like manner; and such entry of record of any such inquisition or supersedeas shall, if the Lord Chancellor of *Great Britain*, intrusted as aforesaid, shall see fit, and so long as he or they shall so see fit, be acted upon by him or them respectively, and be of the same force and validity, and have the same force and effect as if such inquisition had been taken on a commission under the Great Seal of *Great Britain*, and such writ of *Supersedeas* had been issued under the Great Seal of *Great Britain*.

And be it further Enacted, That the powers and authorities given by this Act to the Lord Chancellor of *Great Britain*, intrusted as aforesaid, shall and may be exercised in like manner by, and are hereby given to the Lord Keeper or Commissioners of the Great Seal of *Great Britain* for the time being intrusted as aforesaid; and the powers and authorities given by this Act to the Lord Chancellor of *Ireland*, intrusted as aforesaid, shall and may be exercised in like manner by, and are hereby given to the Lord Keeper or Commissioners of the Great Seal of *Ireland* for the time being intrusted as aforesaid.

Powers given to the Lord Chancellor, to extend to Lord Keeper and Commissioners.

Provided always, and be it further Enacted, That in all cases in which orders shall be made in pursuance of this Act, for the transfer of stock, the person to be named in such order for making such transfer shall be some officer of such Company or Society in whose

Who shall be named in the Orders of the Court, for making Transfers.

books such transfer shall be made ; and where such transfer shall be directed to be made in books kept by the Governor and Company of the Bank of *England*, such officer shall be the Secretary or Deputy Secretary or Accountant General or Deputy Accountant General for the time being of the said Governor and Company.

5

Act to be an Indemnity to the Bank, and other Companies

And be it further Enacted, That this Act shall be and is hereby declared to be a full and complete indemnity and discharge to the Governor and Company of the Bank of *England*, and all other Companies and Societies, and their officers and servants, for all acts and things done or permitted to be done pursuant thereto; and that such acts and things shall not be questioned or impeached in any Court of Law or Equity to their prejudice or detriment.

10

11 Geo. IV. Sess. 1830.

A

B I L L

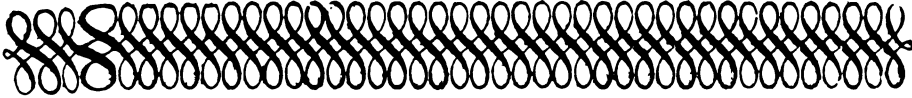
[AS AMENDED BY THE COMMITTEE]

For consolidating and amending the Laws
relating to Property belonging to Infants,
Femes Covert, Idiots, Lunatics, and Persons
of unsound Mind.

*Ordered, by The House of Commons, to be Printed,
24 February 1830.*

29 April 1830.

287



A

B I L L

For making better Provision for the Disposal
of the undisposed-of Residues of the Effects
of Testators.

WH ~~HEREAS~~ Testators by their Wills frequently appoint
Executors without making any express disposition of the
Residue of their Personal Estate: And whereas Executors so appointed
become by law entitled to the whole residue of such personal estate ;
5 and Courts of Equity have so far followed the law as to hold such
Executors to be entitled to retain such residue for their own use,
unless it appears to have been their Testator's intention to exclude
them from the beneficial interest therein, in which case they are held to
be Trustees for the person or persons (if any) who would be entitled
10 to such estate under the Statute of Distributions, if the Testator has
died intestate: And whereas it is desirable that the Law should be
extended in that respect ; ~~BE it therefore Enacted~~, by The KING's
most Excellent MAJESTY, by and with the advice and consent of the
Lords Spiritual and Temporal, and Commons, in this present Par-
15 liament assembled, and by the Authority of the same, THAT when
any person shall die, after the

having by his or her Will, or any codicil
or codicils thereto, appointed any person or persons to be his or her
Executor or Executors, such Executor or Executors shall be deemed
20 by Courts of Equity to be a Trustee or Trustees for the person or
persons (if any) who would be entitled to the estate under the
Statute of Distributions, in respect of any residue not expressly
disposed of, unless it shall appear by the Will, or any codicil thereto,
the person or persons so appointed Executor or Executors was or were
intended to take such residue beneficially.

Preamble.

Executors
deemed by
law entitled to
Residue of
personal
Estate.

Expediency
of amending
the Law.

Executors to
be Trustees
for the per-
son who
would be en-
titled to the
estate under
the Statute
of Distribu-
tion, with
respect to
residue, un-
less it appears
by the Will
that it was
intended such
Executor
should take
the same
beneficially.

338.

Provided

Act not to
affect the
Rights of
Executors in
case of no
Person enti-
tled under
Act of Distri-
bution.

Provided also, and be it further Enacted, That nothing herein contained shall affect or prejudice any right to which any Executor, if this Act had not been passed, would have been entitled, in cases where there is not any person who would be entitled to the Testator's estate under the Statute of Distributions, in respect of any residue not expressly disposed of.

5

Act not to
extend to
Scotland.

Provided always, and be it further Enacted, That nothing herein contained shall extend to that part of the United Kingdom called *Scotland*.

11 GEO. IV.—SESS. 1830.

A

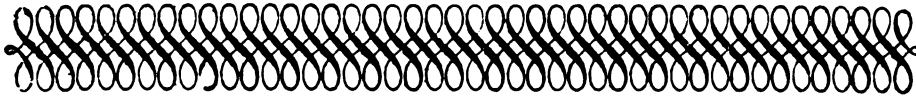
B I L L

For making better Provision for the Disposal
of the undisposed-of Residues of the Effects
of Testators.

*Ordered, by The House of Commons, to be Printed,
29 April 1830.*

338.

27 May 1830.



A

B I L L,

INTITULED,

AN ACT to enable His Majesty to appoint certain Persons to affix His Majesty's Royal Signature to Instruments requiring such Signature.

N. B.—*The Figures in the Margin denote the number of Presses in the Ingrossment.*

MOST GRACIOUS SOVEREIGN,

1 **W**~~H~~~~E~~~~R~~~~E~~~~A~~~~S~~ Your MAJESTY has been graciously pleased to Preamble.
communicate to Your Parliament, that Your Majesty is labouring under severe Indisposition, which renders it painful and inconvenient to Your Majesty to sign with Your own hand those Instruments which require the Sign Manual; and that Your Majesty relies upon the dutiful attachment of Parliament to consider, without delay, of the means by which Your Majesty may be enabled to provide for the temporary discharge of this important function of the Crown, without detriment to the Public Service; We, Your Majesty's most dutiful and loyal subjects, the Lords Spiritual and Temporal, and Commons, in Parliament assembled, have taken Your Majesty's gracious Message into our immediate consideration; and, although trusting in the Providence of Almighty God, that Your Majesty may be speedily restored to health and strength, we feel it our duty to Your Majesty, and to the People of this Realm, to comply with Your Majesty's most gracious recommendation;

And we do therefore humbly beseech Your MAJESTY,

That it may be Enacted; ~~And be it Enacted~~, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords
2. Spiritual and Temporal, and the Commons, in this present Parliament
461. assembled,

His Majesty may appoint One or more Persons to affix, in His presence and by His Majesty's command, His Royal Signature, in the manner herein set forth, to any Warrant or other Instrument, subject to the provisions herein-after contained.

assembled, and by the Authority of the same, THAT it shall and may be lawful for His Majesty, by any Warrant or Commission under His Majesty's Royal Sign Manual, to appoint one or more person or persons, to be therein named, not being any or either of the persons hereby authorized to sign the Memorandum hereinafter mentioned, with full power and authority to each of them to affix, in His Majesty's Presence, and by His Majesty's Command, given by word of mouth, His Majesty's Royal Signature, by means of a Stamp, to be prepared for that purpose in the form following; that is to say, "GEORGE R."; or in cases where the Royal Signature has usually been by Initials only, then by means of a certain other Stamp, to be prepared for that purpose in the Form following; that is to say, "G. R."; to any Warrant, Commission, or other Writing or Instrument, subject to the provisions and regulations hereinafter contained; and His Majesty's Royal Signature, so affixed, shall be valid and effectual, and have the same force and effect as His Majesty's Sign Manual, and shall be deemed and taken to be to all intents and purposes His Majesty's Royal Sign Manual, and be obeyed as such.

The Royal Signature not to be so affixed to any Warrant, &c. without a Memorandum being indorsed thereon, describing the Nature of the Warrant, &c. and signed by the Lord Chancellor, &c.

Provided always, and be it Enacted, That no person so to be appointed shall affix His Majesty's Signature as aforesaid to any Warrant, Commission, or other Writing or Instrument, unless a Memorandum in writing shall have been previously indorsed thereon, describing the nature and object of such Warrant, Commission, or other Writing or Instrument, signed by the Lord High Chancellor, the President of His Majesty's most Honourable Privy Council, the Keeper of His Majesty's Privy Seal, the First Lord Commissioner of His Majesty's Treasury, and His Majesty's Three Principal Secretaries of State for the time being, or any Three or more of them; and that to His Majesty's Royal Signature so affixed, shall be ~~subjoined the words~~ following; that is to say, "Affixed in His Majesty's Presence, and " by His Majesty's Command," which shall be signed by the person affixing the same. 3

Army Commissions to be indorsed by Commander-in-Chief.

Provided also, and be it Enacted, That in all Commissions to Officers in His Majesty's Land Forces, the Memorandum to be indorsed thereon as aforesaid shall be signed by the Commander-in-Chief of His Majesty's Forces, or by the General Commanding in Chief for the time being, and that no other signature shall be required to such Memorandum.

Stamps to be prepared for the purpose, by Order of the Lord President :

Custody of the same.

And be it further Enacted, That the said Stamps so to be prepared as aforesaid, shall be prepared by the order and under the direction of the Lord President of His Majesty's most Honourable Privy Council, and shall be kept in the custody of the Lord High Chancellor, or the President of His Majesty's most Honourable Privy Council, or the Keeper of His Majesty's Privy Seal, or the First Lord Commissioner of 4

of His Majesty's Treasury, or one of His Majesty's Three Principal Secretaries of State for the time being, and shall not be affixed to any such Warrant, Commission, or other Writing or Instrument, except in their presence, or in the presence of one or more of them, who shall attest the same accordingly.

And be it further Enacted, That each of the persons so authorized to affix His Majesty's Royal Signature, shall, before he shall presume to act under His Majesty's Warrant or Commission authorizing him so to do, take and subscribe the following Oath; that is to say,

The Persons authorized to affix the Royal Signature, to take the following

“ I A. B. do swear, That I will not affix the Royal Signature to
 “ any Warrant, Commission, or other Writing or Instrument,
 “ except in His Majesty's Presence, and by His Majesty's
 “ Command, given by word of mouth, and according to the
 “ provisions of an Act intituled, ‘ An Act to enable His Majesty
 “ ‘ to appoint certain Persons to affix His Majesty's Royal
 “ ‘ Signature to Instruments requiring such Signature;’ and
 “ that I will truly and faithfully perform the Duty entrusted
 “ to me by His Majesty under the provisions of the said Act.
 “ So help me GOD.”

OATH.

Which Oath shall be taken before the Lord High Chancellor, who is hereby authorized and required to administer the same.

Provided always, That nothing herein contained shall be construed to prevent His Majesty from signing any Warrant, Commission, or other Writing or Instrument with His Majesty's Royal Sign Manual, in the usual and accustomed manner, or to prevent any Warrant, Commission, or other Writing or Instrument, so signed by His Majesty, from having the same validity and effect as if this Act had not passed.

Nothing herein to prevent His Majesty from signing any Warrant, &c. in the usual manner.

And be it further Enacted, That this Act shall continue and be in full force until the end of the present Session of Parliament; but the same may be altered or repealed by any Act or Acts to be passed in the present Session of Parliament.

Term of Act.

11 Geo. IV.—Sess. 1830.

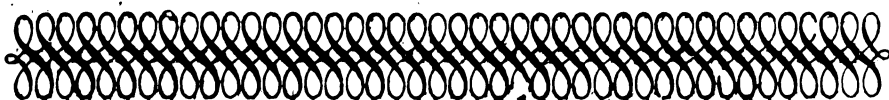
A

B I L L,

INTITULED,

AN ACT to enable His Majesty to appoint
certain Persons to affix His Majesty's
Royal Signature to Instruments requiring
such Signature.

Ordered, by The House of Commons, to be Printed,
27 May 1830.



A

B I L L

To repeal so much of an Act of the Sixtieth year of his late Majesty King GEORGE the Third, for the more effectual prevention and punishment of blasphemous and seditious Libels, as relates to the sentence of Banishment for the Second Offence, and to provide some further remedy against the abuse of publishing Libels.

Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.

WHEREAS by an Act passed in the sixtieth year of the reign of his late Majesty King GEORGE the Third, intituled, “An Act for the more effectual Prevention and Punishment of blasphemous and seditious Libels,” it was amongst other things enacted, that if any person should, after the passing of that Act, be legally convicted of having composed, printed or published any blasphemous Libel, or any such seditious Libel as in the said Act is before mentioned, and should after being so convicted offend a second time, and be thereof legally convicted before any Commission of Oyer and Terminer or Gaol Delivery, or in His Majesty’s Court of King’s Bench, such person might on such second conviction be adjudged, at the discretion of the Court, either to suffer such punishment as might by law be inflicted in cases of high misdemeanor, or to be banished from the United Kingdom and all other parts of His Majesty’s dominions for such term of years as the court in which such conviction should take place should order: And whereas it is expedient to repeal so much of the said Act as relates to the sentence of Banishment for the second offence; ~~BE it therefore Enacted~~, by The KING’s most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT so much and such parts of the said Act as relate to the sentence of banishment for the second offence be and the same are hereby wholly Repealed.

Preamble.

Punishment of Banishment for second offence, Repealed.

Amount of Bonds to be given by persons publishing Newspapers, &c. to be increased.

Damages due to any Plaintiff in any action for Libel, may be recovered upon such recognizance or bond.

AND whereas by a certain other Act passed in the sixtieth year of his late Majesty King George the Third, intituled, “ An Act to subject “ certain Publications to the Duties of Stamps upon Newspapers, and “ to make other Regulations for restraining the Abuses arising from “ the Publication of blasphemous and seditious Libels,” certain provisions were made for preventing any person from publishing any newspaper or pamphlet, or other paper of the description therein mentioned, without first entering into a recognizance or giving a bond, with sureties, in manner and to the amount therein specified, for securing the payment of fines upon convictions for Libels: AND whereas it is expedient to increase the amount of such recognizances and bonds, and to extend the same, for the purpose of securing the payment of damages and costs that may be incurred by actions at law, for Libels published in such newspapers, pamphlets, or other papers as aforesaid ; BE it therefore Enacted, That the amount of such recognizances and bonds, in all cases whenever it shall be hereafter necessary, according to the provisions of the said Act, to enter into any new recognizance or bond, shall be extended to the sum of *Four hundred pounds* for the principal, and the like sum for the sureties in any such new recognizances, and to the sum of *Three hundred pounds* for the principal, and the like sum for the sureties in any such new bond ; and that the conditions of such new recognizances and bonds respectively shall extend to secure the payment of damages and costs to be recovered in actions for Libels published in such newspapers, pamphlets, or others papers, as well as to secure the payment of fines to His Majesty upon such convictions as aforesaid ; and that all the clauses and provisions in the said last-mentioned Act contained, relating to the recognizances and bonds therein mentioned, shall be applicable and extend to such new recognizances and bonds as are herein directed to be taken and made.

And be it further Enacted, That if any Plaintiff, in any action for libel against any editor, conductor or proprietor of such newspaper, pamphlet, or other paper as aforesaid, shall make it appear by affidavit to His Majesty’s Court of Exchequer that he is entitled to have execution against the Defendant upon any judgment in such action, but that he has not been able to procure satisfaction by writ of execution against the goods and chattels of such defendant, it shall be lawful for the said Court, for the benefit of such plaintiff, to order and direct such proceedings to be had and taken upon such recognizances or bonds respectively as would be taken to obtain any fines or penalties due to His Majesty secured by such recognizance and bond : Provided always, That the expense of such proceedings shall be exclusively borne by such Plaintiff as aforesaid.

A •

B I L L

To repeal so much of an Act of the Sixtieth year of his late Majesty King GEORGE the Third, for the more effectual prevention and punishment of blasphemous and seditious Libels, as relates to the sentence of Banishment for the Second Offence, and to provide some further remedy against the abuse of publishing Libels.

*Ordered, by The House of Commons, to be Printed,
21 May 1830.*

27 May 1830.

295



A

B I L L

To amend and render more effectual the Acts for
the building of additional Churches in populous
Parishes.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

WH **H**EREBY an Act was passed in the fifty-eighth year Preamble.
of the reign of his late Majesty King GEORGE the Third,
intituled, “An Act for building and promoting the building of
“ additional Churches in populous Parishes :”

5 AND whereas another Act was passed, in ~~the~~ fifty-ninth year of
the reign of his late Majesty King GEORGE the Third, intituled,
“An Act to amend and render more effectual an Act passed in the
“ last Session of Parliament, for building and promoting the building
“ of additional Churches in populous Parishes :”

10 AND whereas another Act was passed in the third year of the reign
of His present Majesty, intituled, “An Act to amend and render more
“ effectual two Acts passed in the fifty-eighth and fifty-ninth years
“ of his late Majesty, for building and promoting the building of
“ additional Churches in populous Parishes :”

15 AND whereas another Act was passed, in the fifth year of the reign
of His present Majesty, intituled, “An Act to make further provision
“ and to amend and render more effectual three Acts passed in the
“ fifty-eighth and fifty-ninth years of his late Majesty and in the third
“ year of His present Majesty, for building and promoting the build-
“ ing of additional Churches in populous Parishes :”

AND whereas another Act was passed, in the seventh. and eighth years of the reign of His present Majesty, intituled, " An Act to amend the Acts for building and promoting the building of additional Churches in populous Parishes :"

AND whereas it is expedient to explain, amend and render more effectual some of the provisions of the said several recited Acts ;

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in all cases in which His Majesty's Commissioners for building new Churches have directed or shall hereafter direct that pew rents shall be received by churchwardens or chapelwardens, who are or shall be required to pay thereout certain stipends to the minister and clerk of the Church or Chapel of which they are wardens, and that the surplus shall accumulate in the hands of trustees, for the purpose of forming a fund for the erecting or otherwise providing of a suitable house of residence for the minister, with all proper appurtenances thereto, and of a site for the same, it shall be lawful for any such trustees, and they are hereby empowered to apply the whole or any part of any such accumulated fund, and also to borrow money upon the security of the surplus of pew rents of which they are the trustees, for the erection or purchase of or otherwise providing in whole or in part of such house of residence with proper appurtenances thereto, or of a site for the same: Provided always, That in every such case provision shall be made for the paying off at least five per centum of the capital so borrowed, in addition to the interest, in each year: And that it shall also be lawful for the minister of the Church or Chapel for which such house shall be built or provided or intended so to be, and he is hereby empowered, in every case in which such surplus fund shall not be found a sufficient security, to mortgage his stipend or salary, or income arising from fees, in aid of such surplus fund ; or when there shall be no surplus fund, to borrow money on the security of his stipend, salary, and income arising from fees, for the payment of interest and re-payment of the principal sum so borrowed in manner aforesaid: Provided always, That no such house shall be purchased or built, or money borrowed, or surplus fund or salary pledged, until the consent in writing of the Bishop of the diocese, and patron, shall have been given for that purpose: Provided also, That every such mortgage by any minister, of his stipend, shall be made under and subject to such and the like conditions and with the same consents as are required in like cases by an Act passed in the seventeenth year of the reign of his Majesty King George the Third, intituled, " An Act to promote the Residence of the parochial Clergy " by making provision for the more speedy and effectual building, " rebuilding, repairing or purchasing Houses and other necessary " buildings

Trustees of Surplus of Pew Rents may apply Accumulations, and borrow upon Surplus, to build, &c. a House of Residence and obtain a site for it, making provision for repayment.

Minister may also mortgage his Stipend, &c.

Consent of Bishop and Patron in writing, for buying, building or borrowing.

“ buildings and tenements for the use of their benefices ;” and it shall be lawful for the Governors of Queen Anne’s Bounty, in any case in which under all the circumstances they shall think fit so to do, to advance and lend upon such security any sum or sums of money in
 5 any such cases as aforesaid, in like manner as they are authorized to advance and lend money under the said last recited Act.

And be it further Enacted, That it shall be lawful for the said Commissioners, by instrument under their common seal, to sell any portion of the Pews in any Church or Chapel built or acquired or proposed
 10 to be built or acquired under the provisions of the said first recited Acts or this Act, or any part of the catacombs or vaults belonging thereto, and to pay or direct to be paid the proceeds of such sale to the Governors of Queen Anne’s Bounty, in trust to invest the same as the said Governors may think fit, and to appropriate and apply the
 15 income arising therefrom towards the payment of the stipend of the minister, and also towards the providing a house for the residence of such minister, with such consents and under such conditions and regulations as are required by the said hereinbefore recited Act passed in the seventeenth year of the reign of his Majesty King George the
 20 Third : Provided always, That no such pew shall at any time be sold or leased to or for the use of any person not being an inhabitant of the parish wherein such Church or Chapel shall be situate ; and that in all cases where a parish has been completely divided, or a district parish created under the provision of the said first recited Acts or this Act,
 25 no pew in such Church or Chapel situate therein respectively shall at any time be sold or leased to or for the use of any person not being an inhabitant of such distinct parish or district parish respectively : Provided always, That it shall be lawful for the said Governors of Queen Anne’s Bounty to reserve any sum, not exceeding one-half of the proceeds
 30 arising from the sale of any catacombs or vaults as aforesaid, for the purpose of providing for the repayment of any sum advanced on the security of such catacombs or vaults in aid of the expense of erecting any such Church or Chapel, any thing in any Act to the contrary notwithstanding,

Commissioners may sell Pews and Vaults, and pay over the Proceeds to the Governors of Queen Anne’s Bounty, on certain trusts.

And be it further Enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized and empowered in any case in which they shall see fit, to order the Pew Rents of the several Chapels of Ease built or acquired under the provisions of the said first recited Acts, or this Act, in any parish or place, to be thrown into one
 40 common fund, and such fund to be divided in such portions as they shall direct, with the consent of the Bishop of the diocese, between or among the several ministers of such Chapels ; and it shall be lawful for the said Commissioners, with the like consent, in any case in which they shall see fit, to revoke all assignments of stipends to ministers of
 464. any

Commissioners may order Pew-rents of Chapels of Ease in same Parish to form a common Fund, and assign Stipends to the Ministers respectively, but not to diminish any existing assigned Stipend without consent.

any Chapels of Ease with or without districts, which shall have been built or acquired under the provisions of the said first recited Acts or this Act, and to order and direct other stipends to be paid in lieu thereof to the ministers respectively of such Chapels; and thereafter, at any time within the period of *Five* years from the date of such first assignment, to revoke the same, and order and direct other stipends to be paid; any thing in the said Acts to the contrary notwithstanding: Provided always, That nothing herein contained shall authorize the said Commissioners to diminish, without the consent of the minister of any such Chapel, the stipend which before the passing of this Act shall have been assigned to him. 5 10

Commissioners may divide the permanent Income of any Parish applicable to Church purposes, among the Districts, &c. with consent of Bishop and Patron, and of the Incumbent if interested.

And be it further Enacted, That it shall be lawful for the said Commissioners, and they are hereby authorized and empowered in any case in which they shall see fit, to apportion and divide to and among the several and respective parishes or places which shall have been made distinct and separate parishes, or district parishes or chapelries for ecclesiastical purposes, under the provisions of the said first recited Acts, all the permanent income, whether arising from land or any other source, which shall belong at the time of such division to the parish which shall have been so divided, and which shall be applicable to ecclesiastical purposes, in like manner as they are by the said recited Act of the third year of the reign of His present Majesty authorized to apportion and divide any charitable bequests or gifts or the produce thereof, except so far as the incumbent of the original parish may be entitled to any part of such permanent income, which part shall not be subject to such apportionment without the consent of the bishop of the diocese and the patron, nor, during the incumbency of the existing incumbent, without his previous consent in writing; and all such apportionments shall in like manner as is directed by the said last-mentioned Act be registered in the registry of the diocese, and duplicates thereof deposited with the respective churchwardens of such separate district parishes or chapelries. 15 20 25 30

Appointment by Commissioners of permanent Charitable Funds, when inrolled, to be binding upon all Trustees.

Provided always, and be it further Enacted, That when any charitable bequests, gifts, or other income or funds shall have been apportioned and divided under the provisions of the said recited Act of the third year of the reign of His present Majesty, or of this Act, such apportionment and division, and the Award of the Commissioners by which the same shall have been made, shall, when inrolled in the High Court of Chancery, be binding upon all trustees and other persons whatsoever, who are required to act in conformity with such apportionments, and are hereby indemnified for so doing, any thing in any Act or Acts or law or laws to the contrary notwithstanding. 35 40

Commissioners may ascertain loss of Fees by Clerks

And be it further Enacted, That from and after the *passing of this Act*, it shall be lawful for the said Commissioners to ascertain, in such manner

manner as they shall deem satisfactory, the loss of fees sustained by any existing clerk or sexton of any parish or place in which any Church or Chapel either has been or shall be built or acquired under the provisions of the said first recited Acts or this Act, and, if the said
 5 Commissioners shall deem it expedient, to order and direct that such annual payments be made to any such existing clerk or sexton of the original parish, from the fees accruing to any clerk or sexton of any such new Church or Chapel of any such parish or place, as the said Commissioners shall deem sufficient to compensate any such clerk and
 10 sexton respectively of the original parish for their respective losses during such time as they may respectively continue in office: Provided always, That no compensation shall be made to the clerk or sexton of any parish or place who shall be appointed, after a declaration on the part of the said Commissioners of their intention to build
 15 a Church or Chapel in such parish or place.

and Sextons,
and direct
Compensation.

AND whereas doubts have arisen whether the provisions of the said recited Acts passed in the fifty-eighth and fifty-ninth years respectively of the reign of his late Majesty King George the Third, for borrowing money, are applicable to district parishes made under the provisions
 20 of the said recited Acts, or to townships or chapelries in which parochial rights are used and exercised; BE it therefore Declared and Enacted, That all the powers, authorities and provisions in the said first recited Acts or in this Act contained, in relation to the borrowing of money, shall extend to all district parishes made under the provisions
 25 of the said first recited Acts, and to all townships or chapelries in which parochial rights are used and exercised, and may be put in force for increasing the accommodation in any Church or Chapel, and also for the purchasing of any additional burial ground, and for the more effectually inclosing and securing any burial ground in any
 30 such district parish or place, with such and the like consents, and under and subject to the same provisions in relation thereto, as are applicable to parishes in general.

Powers of
borrowing
under the
58 & 59
Geo. 3,
declared to
extend to dis-
trict Parishes
and Town-
ships and
Chapelries in
which paro-
chial rights
are exercised,
with like
consents, &c.

And be it further Enacted, That all the powers and authorities and provisions contained in the said recited Act of the fifty-ninth year
 35 of the reign of his late Majesty, respecting the providing additional church-yards or burial grounds, shall extend to all chapelries having right of burial, in which separate rates have been or may be made for ecclesiastical purposes.

Powers of
59 Geo. 3,
as to provid-
ing additional
Churchyards
or Burial
Grounds, to
extend to
Chapelries
having right
of burial, and
separate rates.

And be it further Enacted, That when any parish shall have been
 40 divided under the provisions of the said first recited Acts into distinct and separate parishes, or into district parishes, the right of nomination of the ministers of all chapels within the separate and distinct or district parishes which would otherwise belong to the incum-

Ministers of
Chapels
within sepa-
rate or district
Parishes, how
to be ap-
pointed.

bents of the original parish, shall from and after the first avoidance of such original parish Church belong to the incumbents of the Churches of the separate and distinct or district parishes within which the same shall be respectively situate, so that the incumbent of each such separate and distinct or district parish shall have the right of nominating 5 licensed stipendiary curates to all such Chapels within his separate and distinct or district parish.

Minister of a Chapel built within a Chapelry having distinct boundaries, and being a perpetual Curacy, how to be appointed.

And be it further Enacted, That in every case in which a Chapel of Ease shall have been built or shall be built under the provisions of the said first recited Acts, within a parochial chapelry, or in a chapelry 10 having distinct boundaries, and the incumbent or minister whereof is a perpetual curate having cure of souls, the right of nomination to such Chapel of Ease, when vacant, shall from and after the *passing of this Act* be vested in the incumbent of such perpetual curacy, and not in the incumbent of the parish wherein such perpetual curacy is 15 situated; any thing in the said first recited Acts to the contrary thereof notwithstanding.

Warden or Head Officer of any Ecclesiastical Corporation to be deemed Incumbent for certain purposes.

And be it further Enacted, That whenever any Church or Chapel shall be held by any ecclesiastical corporation aggregate, the warden or other head officer of such corporation shall be deemed and taken to be the 20 incumbent of such Church or Chapel, for the purposes of the said recited Acts and this Act, so far as they relate to the division of parishes or to the assigning of districts.

Chapels of Consolidated Chapelries, under 59 Geo. 3, s. 6, to be repaired as District Churches.

And be it further Enacted, That all the provisions relating to the repairs of district parish Churches shall apply and be in full force in 25 relation to the repairs of the Chapels of chapelries consolidated under the said recited Act of the fifty-ninth year of the reign of his late Majesty King George the Third, except that for the term of *Twenty* years and no longer from the consecration of such Chapels, the several portions of such consolidated chapelries shall remain subject to the 30 repairs of the original Churches or Chapels of the parishes or extra-parochial places out of which such consolidated chapelries respectively shall have been formed.

Parish may be divided into a distinct and district Parish at the same time or at separate times.

AND whereas by the said recited Act passed in the fifty-eighth year of the reign of his late Majesty, it was enacted, that it should be 35 lawful for His Majesty in Council, if He should judge fit, on a representation to be made to Him by the said Commissioners of the expediency of the same, with the consent of the bishop of the diocese and the patron, to direct by an Order in Council the division of any parish into two or more distinct and separate parishes for all ecclesiastical 40 purposes whatever: AND whereas it was by the said recited Act also enacted, that it should be lawful for His Majesty in Council, if He should

should judge fit, on a representation to be made to Him by the said Commissioners, with the consent of the Bishop of the diocese, in like manner in any case in which they should be of opinion that it was not expedient to divide any populous parish or extra-parochial place into such complete, separate and distinct parishes as aforesaid, by an Order in Council to direct the division of the same into ecclesiastical districts: AND whereas it may be found expedient to divide off from any parish or extra-parochial place any part or parts thereof, and to form the same into a distinct and separate parish or parishes, or into a district parish or district parishes; BE it therefore Enacted, That it shall be lawful for His Majesty in Council, where He shall judge fit, on a representation to be made to Him by the said Commissioners of the expediency of the same, to direct by an Order in Council the dividing off from any original parish or extra-parochial place any part or parts thereof, and the forming the same into a distinct and separate parish or distinct and separate parishes, or into a district parish or district parishes, either at the same time or at separate times; and also at any time to direct the dividing off any such separate and distinct parish or district, so formed, into other distinct and separate or district parishes: Provided always, That all such divisions and all parishes so divided shall respectively be under and subject to the like consents and to the same rules and regulations as are provided in the said first recited Acts, or this Act, with respect to distinct and separate parishes and district parishes respectively.

And be it further Enacted, That in all cases of division of parishes or assigning districts to Churches or Chapels under the provisions of the said first recited Acts or either of them, all such divisions and assignments, from and after the enrolment in the High Court of Chancery of the description of the boundaries thereof respectively, shall be good and valid; notwithstanding any defects or informalities in the respective forms and proceedings thereof.

Division of Parishes, &c. to be good, notwithstanding defects in the forms and proceedings.

And be it further Enacted, That it shall be lawful for the incumbent of any parish or place wherein any Chapel of Ease has been or shall hereafter be built or acquired under the provisions of the said first recited Acts or this Act, whether with or without a district, to nominate and appoint one chapelwarden, and for the pewholders of such Chapel of Ease to nominate and appoint another chapelwarden, both being pewholders in such Chapel; and such chapelwardens shall have and exercise all such powers and authorities in relation to the pews and seats in such Chapel, and the maintaining of good order therein, as any churchwarden or chapelwarden may exercise under the provisions of the said first recited Acts or this Act.

Chapelwardens to be appointed by Incumbent and Pewholders.

And be it further Enacted, That proper register books shall be kept in all Chapels in which baptisms, marriages or burials may lawfully be performed;

Register Books to be kept in all Chapels in

which marriages, baptisms and burials may be performed. All laws to apply to them.

performed; and all the provisions of the said first recited Acts and this Act, and all Acts and laws in force relating to register books of baptisms, marriages and burials, shall apply and be in force in relation to such register books, and the keeping and preservation thereof, and transmitting copies thereof to the registry of the diocese; and such copies shall be verified by the minister, and by the chapelwardens if any; and if not, by the churchwardens of the parish Church. 5

Registry and Copies of, in Churches, &c. under these Acts, to be admitted in evidence.

And be it further Enacted, That the production of the registry, or of an examined copy of the registry of any marriage, from any Church or Chapel built or acquired under the provisions of the said first recited Acts or this Act, wherein marriages may be lawfully performed, shall be admitted as evidence, and have the same effect in relation to the proof of a marriage therein, in all cases, as the registry or copy of registry of any parish Church. 10

Vaults or Graves not to be made within certain distance of Walls of Churches.

AND whereas it is necessary, for the preservation of Churches and Chapels, that the practice of burying near to the walls and foundations thereof should be in all cases prevented for the time to come; BE it therefore Enacted, That from and after the *First day of January one thousand eight hundred and thirty-one*, it shall not be lawful to open any grave or make any new grave or vault within *Ten* feet of any part of the external walls of any Church or Chapel, whether such Church or Chapel shall have been built before or after the passing of any of the said first recited Acts. 15 20

Penalty on opening ground within such distance.

And be it further Enacted, That every sexton or other person who shall after the said *First day of January one thousand eight hundred and thirty-one*, open any grave, or make any new grave or vault within any such distance, shall for every such offence forfeit the sum of *Twenty pounds*; and every such penalty or forfeiture shall and may be recovered and levied under the provisions of the said recited Act of the fifty-eighth year of the reign of his late Majesty. 25 30

Provision of 58 Geo. 3, as to making Vaults or Graves within certain distances of Walls of Churches built, &c. amended.

AND whereas by the said recited Act of the fifty-eighth year of the reign of his late Majesty King George the Third, it was enacted, that it should not be lawful to break up the pavement or to open the soil beneath the same within any Church or Chapel to be erected under the provisions of the said recited Act, for the purposes of burial, or to make any grave in any cemetery or churchyard thereunto adjacent or belonging, at any less distance than *Twenty* feet from the external walls of such Church or Chapel respectively: AND whereas it is expedient that the provisions of the said recited Act should be amended; BE it therefore Enacted, That it shall be lawful for the said Commissioners, in any case in which they shall think fit, by any instrument under their common seal to authorize the opening of graves or making of new vaults at any distance not less than *Ten* feet from the wall of any Church 35 40

or

or Chapel built or acquired under the provisions of the said first recited Acts or this Act, any thing in the said recited Act to the contrary notwithstanding.

And be it further Enacted, That every sexton or other person who shall make any new grave or vault within any distance less than is ordered by the said Commissioners by instrument under their common seal as aforesaid, shall for every such offence forfeit the sum of *Twenty pounds*; and every such penalty or forfeiture shall and may be recovered and levied under the provisions of the said recited Act of the fifty-eighth year of the reign of his late Majesty.

Penalty on opening ground within such distance.

And be it further Enacted, That all the powers and authorities in the said recited Act of the fifty-eighth year of the reign of his late Majesty contained, in relation to the enfranchising of copyholds, shall extend and be construed to extend to empower all lords and ladies of manors to enfranchise any glebe or parsonage, or building thereto belonging, which may be held of any such lord or lady by copyhold tenure, without any surrender thereof; and it shall be lawful for any such lord or lady of any manor who shall be willing so to do, to enfranchise any such glebe or parsonage, or building thereto belonging, without any surrender thereof, under the powers and authorities in the said recited Act contained, in like manner as any site for any Church or Chapel may be enfranchised under the said Act.

Lords or Ladies of Manors empowered to enfranchise any Glebe, Parsonage, or buildings thereto belonging.

AND whereas it is expedient that the said Commissioners should be empowered in certain cases to constitute any Church or Chapel, whether built under the provisions of the said first recited Acts or this Act, or otherwise, to be the parish Church of the parish in which the same is situate, in the stead of the ancient parish Church; and that such ancient parish Church shall thereupon become and be and remain as a district Church or Chapel of Ease in the said parish; BE it therefore Enacted, That it shall be lawful for the said Commissioners, with the consent in writing of the Bishop of the diocese, and of the Patron, by instrument under their common seal to order and direct that any Church or Chapel in such parish or place shall become and be and remain the parish Church of such parish or place, in the stead of the ancient parish Church; and the said Church or Chapel so constituted the present parish Church shall from the time of the enrolment of such instrument in the High Court of Chancery thenceforth become and be and remain and be deemed and taken in law to be the parish Church of such parish or place as fully and effectually for all purposes, and in relation to all rights, emoluments, endowments, dues, privileges, and all other matters and things, civil or ecclesiastical, theretofore belonging to the parish Church or the patron or lay impropriator, if any thereof, as if the same had been always the parish Church of such parish; and

Commissioners, with consent, may make any Church or Chapel the parish Church of any parish, and the parish Church a district Church or Chapel of Ease.

the former parish Church shall from such time be deemed to be a district Church or Chapel, with or without a district, as the said Commissioners shall in each case direct; and the said Church so constituted the parish Church, and the said Church so become a district Church or a Chapel, shall thenceforth be respectively subject to all the provisions of the said first recited Acts and this Act, to all intents and purposes as if the same had been so originally respectively built: Provided always, That no such instrument shall take effect till after the first avoidance of such parish Church, unless with consent of the actual incumbent thereof: Provided always, That the chancel, if any, of such former parish Church shall continue to be repaired in such manner and by the same persons as are now by law liable to the repairs thereof.

Commissioners may, upon change of Churches, assign Pew-rents of the new Parish Church as a Stipend, &c. to the Minister of the old Church.

And be it further Enacted, That in every case in which any such Church or Chapel shall be so made the parish Church, and the rights of the old Church shall be so transferred to the new Church, and the old Church shall be made a district Church or Chapel under the provisions of this Act, it shall be lawful for the Commissioners, if in their discretion they shall see fit, with the consent of the Bishop of the diocese, to assign the whole or any part or portion of the pew rents arising from the new parish Church, to make up competent stipends for the minister and clerk who may be appointed to serve in the old Church when it shall have been so made a district Church or Chapel.

Two thirds of the Trustees of any Chapel empowered to act in giving effect to the provisions of 3 Geo. 4. c. 74.

AND whereas doubts have arisen where the trustees of certain Churches and Chapels have been desirous of availing themselves of the provisions of the said recited Act of the Third year of His present Majesty, for the better upholding the said Churches or Chapels, and better providing for the duties thereof, whether a majority of the said trustees can act; BE it therefore Enacted, That a majority of the trustees of any Church or Chapel, not being less than two-thirds of the whole number of such trustees, shall be authorized and empowered to do any act, matter or thing which the trustees of any Church or Chapel are authorized or empowered to do under the said recited Act of the third year of His present Majesty, any thing in any Act to the contrary notwithstanding.

Parishes which have been united may, by Order in Council, be again separated.

AND whereas it may in some cases, by reason of increase of population or other causes, be expedient that Churches and Benefices which have been united should be again severed; BE it therefore Enacted, That in every case in which the said Commissioners shall think fit that it will be expedient to disunite or separate two or more Churches or Benefices heretofore united, it shall be lawful for the said Commissioners, and they are hereby authorized and empowered, with the consent of the Bishop of the diocese in which such Churches or Benefices are locally situate, signified under his hand and seal, and also with the

the consent in writing of the patrons or patron of such Churches or Chapels or Church or Chapel, to represent to His Majesty in Council the grounds and reasons upon which they think it expedient that such separation should take place; and if thereupon His Majesty in Council shall think fit to order and direct, and shall thereupon order and direct that such separation shall be made, such Churches or Chapels shall thereupon become and be separate and distinct Churches and Benefices in law, to all intents and purposes, from the time which shall be specified in any such Order; any thing in any Act or Acts, or in any order made under the authority of any Act or Acts, to the contrary notwithstanding: Provided always, That no such separation of Churches or Chapels or of a Church or Chapel from any other Church or Chapel, shall take effect until after the first avoidance of the existing incumbent thereof, unless or until such existing incumbent shall signify his consent thereto in writing to the Bishop of the diocese; and such Order in Council shall be duly registered in the registry of the Bishop of the diocese wherein such Churches, Chapels, or Church and Chapel, are locally situated.

Provided always, and be it further Enacted, That all the tithes, moduses, endowments, and other dues, profits and emoluments held with and annexed to each of such respective Churches or Chapels, or Benefices, or Church and Chapel, shall, previous to such separation, be assigned by the said Commissioners, with the consent of the Bishop of the diocese and the patron, to the incumbent of the said Churches and Chapels and Benefices respectively, in such portions and in such manner as they may think fit; and that the portions so assigned shall belong to and be recoverable by the incumbent of each of such Churches or Chapels, or Benefices, or Church and Chapel respectively, in like manner in every respect as the same were before recoverable by the incumbent of the united Churches or Chapels, or Church and Chapel: Provided also, That the estate right title and interest of all bodies corporate and persons, in and to the respective advowsons of such united Churches or Chapels, or Church and Chapel, shall, after such separation thereof, remain and be to all such bodies corporate and persons in the same manner as if such separation had not been made, unless any agreement touching the future exercise of the patronage of such Churches or Chapels shall be entered into by such parties, with the consent of the Bishop of the diocese, under his hand and seal, which agreement, when duly registered together with the instrument of separation, shall be and be held to be valid and binding in law.

Tithes, and
and all En-
dowments,
may in
such cases
be apportion-
ed with cer-
tain consents.

AND whereas by the said recited Act passed in the Fifth year of the reign of His present Majesty, it was amongst other things enacted, That with a view to afford facility to the erection of Churches and Chapels, it should be lawful for certain persons building or purchasing

So much of
the 7th & 8th
Geo. 4. as
authorizes the
Commis-
sioners to
declare the
perpetual

right of nomination,
Repealed.

the same, and endowing them with pew rents, to nominate, for forty years, spiritual persons to serve such Churches or Chapels respectively, subject to the consent of the Bishop of the diocese, and to certain regulations therein provided: AND whereas by the said recited Act passed in the Seventh and Eighth years of the reign of His present Majesty, further encouragement was given to the same object, by authorizing the said Commissioners to declare that any person or persons building a Chapel, and endowing the same, to the satisfaction of the said Commissioners, with some permanent provision in land or monies in the funds, should have the perpetual right of nominating the minister to serve the same: AND whereas the said provisions of the said last recited Act have been found insufficient for such their purposes, and require amendment, in order to provide more effectually for the improved pastoral superintendence of His Majesty's subjects; BE it therefore Enacted, That so much of the said recited Act passed in the seventh and eighth years of the reign of His present Majesty, as authorizes the said Commissioners to declare, in the cases therein provided, the right of nominating the spiritual persons to serve the Chapels therein named respectively to be in the person or persons, his her or their heirs and assigns, or appointees, shall be and the same is hereby Repealed.

Commissioners may upon certain conditions declare the Nomination of the Minister of a Chapel to belong to the person who shall permanently endow it, his heirs, assigns or appointees.

And be it further Enacted, That in all cases in which any person or persons shall endow or declare their intention of endowing, to the satisfaction of the said Commissioners, any Church or Chapel built or intended to be built by such person or persons, with some permanent provision in land or in money, charged upon land or money in the funds, exclusively of and in addition to the pew rents or profits arising from the said Church or Chapel, it shall be lawful for the said Commissioners, with the consent of the Bishop of the diocese, if under all the circumstances it shall appear to them fit and proper so to do, to declare that after certain conditions hereinafter mentioned are performed, the right of nominating a minister to such Church or Chapel shall for ever thereafter be in the person or persons building and endowing the same, his her or their heirs and assigns, or in such person or persons as he she or they shall appoint: Provided always, That the patronage of any such Church or Chapel shall at no time be vested in more than Three persons.

Certain Particulars in writing to be sent to the Commissioners three months before any Declaration of nomination can be made.

Provided always, and be it further Enacted, That previous to such declaration of nomination as aforesaid being made, application in writing shall be made to the said Commissioners, setting forth the population of the parish in which such Church or Chapel is built or proposed to be built, together with the accommodation provided in the several Churches or Chapels built or building or intended to be built within such parish, together with the population of the district for which such

302

such Church or Chapel is intended to provide, and the accommodation proposed to be provided in such Church or Chapel, and its distance from the existing Churches or Chapels in the parish, and that copies of such application shall in every such case, at the time of making the same, be sent to the patron and incumbent respectively of the parish, chapelry, township or extra-parochial place in which such Church or Chapel is built or intended to be built, in order to afford such patron and incumbent the opportunity of laying before the said Commissioners any statement relating thereto ; and the said Commissioners shall not signify their intention of declaring such right of nomination as aforesaid until after the expiration of *Three* calendar months from the time when they shall have sent such copies to such patron and incumbent respectively : Provided always, That no declaration of the right of nominating a minister to such Church or Chapel shall in any case take effect until such Church or Chapel shall have been duly consecrated, and until an ecclesiastical district, under and subject to all the provisions of the said first recited Acts and this Act, except as to the nomination of the spiritual person to such Church or Chapel, shall have been assigned thereto : Provided also, That all such Churches or Chapels shall be subject to the jurisdiction of the Bishop of the diocese and the Archdeacon of the archdeaconry within which the same shall be situated.

Declaration
not to take
effect until
Consecration.

And be it further Enacted, That it shall be lawful for the said Commissioners, if they shall think fit, to order and direct that such Church or Chapel shall be subject to all the provisions of the said recited Acts or this Act, as to apportionment of accommodation in pews and free sittings, and as to pew rents.

Commission-
ers may order
that such
Church or
Chapel shall
be under the
provision of
the first
recited Acts.

AND whereas doubts have arisen whether, under the provisions of an Act passed in the fifty-seventh year of the reign of his late Majesty King George the Third, intituled, " An Act to consolidate and amend " the Laws relating to Spiritual Persons holding of Farms, and for " enforcing the Residence of Spiritual Persons on their Benefices, and " for the support and maintenance of Stipendiary Curates in England," the Bishop of the diocese be empowered to require, in all cases where he shall see fit, the preaching of a second sermon in any Church or Chapel after the second service on Sunday ; FOR the removal of all such Doubts, BE it Enacted, That it shall be lawful for the Bishop of the diocese, in all cases in which he shall see fit, and he is hereby authorized and empowered to require in any Church or Chapel, whether built or acquired under the provisions of the said first recited Acts or this Act, or otherwise, the preaching of such second sermon after the second service on Sunday, and to enforce the same by monition and sequestration, according to the provisions of the said last recited Act.

Bishop of
Diocese may
enforce
preaching a
second Ser-
mon after
second Ser-
vice.

And be it further Enacted, That the said Commissioners shall, during the period of their being a corporate body under the provisions of the
464. D said

Commis-
sioners may
sue and be
sued while a
corporate

body under
the first re-
cited Acts, in
their corpo-
rate style only
and in no
other.

said first recited Acts, sue and be sued in their corporate name and style only, and in no other manner; any thing in any of the said first recited Acts, or any or either of them, or in any law or laws to the contrary notwithstanding.

Consent of
Bishop of the
Diocese.

And be it further Enacted, That in all cases where in the said first 5
recited Acts or this Act the consent of the Bishop is required, it shall
be construed to mean the consent of the Bishop of the diocese within
which the parish or place to which such consent refers is locally situate.

Power of
Bishops not
to be affected.

Provided always, and be it further Enacted and Declared, That
nothing in this Act contained shall extend to destroy any of the rights 10
or powers belonging to any Bishop of any diocese.

11 Geo. IV. Sess. 1830.

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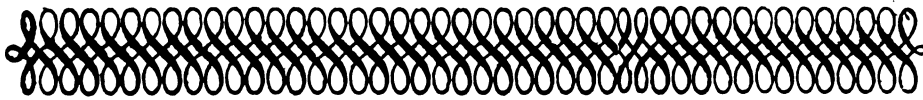
B I L L

To amend and render more effectual the Acts
for the building of additional Churches in
populous Parishes.

(Printed, by The House of Commons, to be Printed,
27 May 1830.

19 May 1830.

309



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B I L L

For endowing the Parish Church of Newborough, in the County of Northampton, and three Chapels, called Portland Chapel, Oxford Chapel, and Welbeck Chapel, situate in the Parish of Saint Mary-le-bone, in the County of Middlesex, and also a Chapel erected on Sunk Island, in the River Humber.

[Note:—The Words printed in *Italics* are proposed to be inserted in the Committee.]

- W**~~H~~~~E~~~~R~~~~E~~~~A~~~~S~~ by an Act of Parliament passed in the fifty-
second year of the reign of his late Majesty King George the
Third, intituled, “ An Act for draining, inclosing and improving the
“ Lands called Borough Fen Common, and the Four Hundred Acre
5 “ Common, in the County of Northampton, and for forming the
“ same into a Parish to be called Newborough, and for building and
“ endowing a Church for such Parish,” it was amongst other things
enacted, that when and so soon as the Comuissioners therein named
should have ascertained the rights and interests of the several persons,
10 bodies politic corporate and collegiate, interested in the said common
and waste lands thereby authorized to be drained and inclosed, the said
common and waste lands should be formed into and be made and become
a Parish to be called the Parish of Newborough in the county of
Northampton and in the diocese of Peterborough and archdeaconry of
15 Northampton; and it was by the said Act (amongst other things)
further enacted, that in case the right to tithes thereinbefore referred to
should not be established by The King’s most Excellent Majesty, or by
any person or persons claiming tithes as thereinbefore mentioned, then
the Commissioners of the said Act should set out, allot and award
431. A unto
- Preamble.
Newborough
Forest Act.

unto and for the Lord Bishop of Peterborough certain parts of the said common and waste lands for the purposes of erecting a Church and Parsonage House, and for a Church-yard and Burial-ground, and certain other parts of the said common and waste lands for the benefit of the officiating minister for the time being, to be appointed to the said Church, and certain other parts of the said common and waste lands, the rents and profits of which were to be taken by the parish clerk to be appointed to the said Church : 5

And whereas by the verdict of a jury given at the assizes held at Northampton in the month of July one thousand eight hundred and fourteen, his late Majesty was found to be entitled to the tithes of the said commons and waste lands; and His present Majesty is seised of the said tithes to Him, His heirs and successors, in right of His Crown : 10

And whereas soon after the passing of the said Act, the Commissioners appointed for carrying the same into execution ascertained the rights and interests of the several persons, bodies politic corporate and collegiate, interested in the said common and waste lands, whereupon the said common and waste lands was formed into and is now become a Parish, under the provision for that purpose contained in the said Act, and is now called the Parish of Newborough : 15 20

And whereas in consequence of the Crown having established its right and claim to the aforesaid tithes, no allotments were made under the said Act of Parliament, for the purpose of erecting such Church and other buildings as aforesaid, or for the purpose of making such endowment as aforesaid : 25

That a Parish Church has been built at the expense of the Crown on lands belonging to the Crown.

And whereas His present Majesty having been desirous that a Parish Church, to be called the Parish Church of Newborough, should be erected for the purposes of divine worship, the Commissioners of His Majesty's Woods Forests and Land Revenues have applied the sum of One thousand two hundred and five pounds in building and finishing a Parish Church, and in fitting up and furnishing the same with a pulpit, seats, pews, galleries, bells and other necessary appurtenances, upon one acre of land situate in the said parish of Newborough, lying on the north-west corner of a piece of land belonging to His Majesty called the Forty Acres, bounded on the west by Gunter's Road, on the north by Crown Road, and on the east and south by other part of the said Forty Acres; and such part of the said piece of land containing one acre as does not form the site of the said Parish Church, has been inclosed or partly inclosed as a Church-yard and Burial-ground : 30 35

Benefit to result from setting apart the Church as a

And whereas it would be greatly for the benefit and advantage of the Inhabitants for the time being of the said parish of Newborough, that 40

that the said Church should be consecrated and set apart as a place of divine worship, and that an annual stipend should be provided for the officiating minister for the time being of the said parish church, and that other provisions should be made concerning the same;

place of worship, and for providing a Stipend for the Minister.

5 May it therefore please Your MAJESTY,

That it may be Enacted; ~~And be it Enacted~~, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said Church
 10 so erected and built as aforesaid shall be called " The Parish Church of Newborough, in the diocese of Peterborough, in the archdeaconry of Northampton and county of Northampton," and that so much of the said piece of land containing one acre or thereabouts, as does not
 15 ever hereafter used as a church-yard and burial-ground to the said Church; and that the said Church shall be kept in repair, and the pulpit, seats, pews, galleries, bells and other furniture and chattels in or belonging to the said Church, shall be repaired or renewed from time to time, and the church-yard kept in repair, at the costs and
 20 charges of the inhabitants of the said parish; and that the east and south sides of the said church-yard shall forthwith, at the costs and charges of the said inhabitants, be fenced with a good ditch not less than *three feet and a half* in perpendicular depth, and that a double row of whitethorn quick shall be planted on the side thereof next the church-yard, and that
 25 the fences that have been made or set up on the north and west sides of the said church-yard, and the ditch and fences so to be made or set up on the east and south sides of the said church-yard, shall be kept in good repair and condition at the costs and charges of the said inhabitants; and that the amount of all such costs and charges as aforesaid
 30 shall be paid by the inhabitants of the said parish for the time being according to an annual assessment to be made upon them by the church-wardens for the time being, and shall be recovered by such and the same means as any other parochial charge is by law authorized to be recovered.

The Church to be called the Parish Church of Newborough.

Part of the ground to be used as a Church-yard and Burial-ground.

35 And be it further Enacted, That the said Church shall be endowed and the same is hereby endowed with all and singular the privileges, rights, profits and advantages thereunto belonging or appertaining, according to and for the purposes of this Act, and shall be set apart and dedicated to and for the service of Almighty God as and for a place of
 40 divine worship according to the rites and ceremonies of the United Church of England and Ireland, for ever (the same being first duly consecrated according to the usage of the Church of England,) and shall

The Church endowed as a place of Worship.

The Minister
to be incorpo-
rated.

and is hereby declared to be a separate and distinct perpetual cure and benefice, and shall be called by the name of "The Church of Newborough;" and that every minister of the said Church shall be deemed and taken by virtue of this Act to be incorporated and made a body politic and corporate by the name of "The Officiating Minister of the Church of Newborough in the county of Northampton," and shall have perpetual succession, and be enabled to sue by that name in all courts of this realm; and the said Church, and church-yard or burial-place belonging thereto, shall be vested in the said minister and his successors for the time being for ever; and the said Church and the minister thereof, and also the person or persons who shall act as or in the nature of a churchwarden thereof for the time being, shall be under and subject to the order and jurisdiction of the said Lord Bishop of Peterborough and Archdeacon of Northampton and their successors for the time being, and shall be visited as other churches or chapels within the said diocese and archdeaconry are visited. 5 10 15

The Advow-
son to the
Church vested
in His Majesty.

And be it further Enacted, That the Advowson, right of patronage, free disposition and nomination of, in, and to the said Church shall from and immediately after the *passing of this Act* appertain to and the same are hereby vested in The King's most Excellent Majesty, His heirs and successors, for ever freed and absolutely acquitted and released from and against all estates interests claims and demands whatsoever of any person or persons whomsoever, except as ordinary of the said Church, and such other ecclesiastical jurisdiction as may be necessary. 20

After Confe-
cration, Mar-
riages to be
celebrated and
solemnized.

And be it further Enacted, That from and after the consecration of the said Church, banns of matrimony may be published and marriages celebrated therein, in such manner and under such restrictions and regulations as the same can or may by law be published or celebrated in parish Churches or public Chapels where banns and marriages are published and celebrated; and that every such marriage shall be valid to all intents and purposes whatsoever; provided that all such banns and marriages shall be published and celebrated according to the laws and canons in force within this realm in that behalf. 25 30

Registers to
be provided.

And be it further Enacted, That all marriages, christenings and burials had and solemnized within the said Church shall be registered in public registers to be provided and kept for that purpose, in manner and for the purposes as by law directed. 35

Commissioners of
Woods Forests
and Land Revenues
to purchase
£. 8,333. 6s. 8d.
3 per Cent Conso-
lidated Bank An-
nuities in the joint
names of the Bishop

And be it further Enacted, That as soon as conveniently may be after the *passing of this Act*, the Commissioners of His Majesty's Woods Forests and Land Revenues shall, out of the produce of the land revenues of the Crown, purchase the capital sum of *Eight thousand three hundred thirty-three pounds six shillings and eight-pence* in the Three per centum 40

centum consolidated Bank Annuities, in the joint names of The Right reverend Herbert Marsh, doctor in divinity, Lord Bishop of Peterborough, or the Lord Bishop of Peterborough for the time being, and the Right honourable William Lowther, commonly called Viscount

5 Lowther, First Commissioner of His Majesty's Woods Forests and Land Revenues, or the First Commissioner for the time being thereof, as trustees thereof; and that the trustees for the time being of the said capital sum shall pay the dividends and interest thereof to the officiating minister for the time being of the said Church of Newborough,

10 or authorize and empower him to receive the same as and when the same shall become due and payable, as and for a stipend or salary for the performance of his sacred duties.

of Peterborough and William Viscount Lowther, as Trustees, and the Dividends to be paid to the Minister of the Church as his Salary.

Provided always, and be it further Enacted, That on the death, cession or translation of the said Herbert Lord Bishop of Peterborough,

15 or of any future Lord Bishop of Peterborough, or on the death or cesser to act of the said William Viscount Lowther, as such First Commissioner as aforesaid, or of any future First Commissioner of His Majesty's Woods Forests and Land Revenues, the said capital sum of *Eight thousand three hundred thirty-three pounds six shillings and*

20 *eight-pence* shall be forthwith and from time to time transferred, so as to become vested in the joint names of the Lord Bishop of Peterborough and the First Commissioner of His Majesty's Woods Forests and Land Revenues for the time being, upon the trusts hereinbefore declared concerning the same : Provided nevertheless, That if at any time here-

25 after the Board, commonly called " The Commissioners of His Majesty's Woods Forests and Land Revenues," shall be discontinued, it shall be lawful for the Lord High Treasurer or the Commissioners of the Treasury for the time being, by any writing under his or their hand or

30 hands, to nominate and appoint some person to act as trustee with the said Lord Bishop of Peterborough for the time being, and also upon the death, removal or declining to act of the person to be appointed, or of any other person to be thereafter nominated and appointed in pursuance of this present power, to nominate and appoint from time

35 to time some other person to act as trustee with the Lord Bishop of Peterborough for the time being; and that upon every such nomination and appointment being so made as aforesaid, the said capital sum of *Eight thousand three hundred thirty-three pounds six shillings and*

40 *eight-pence* shall be forthwith transferred so as to become vested in the joint names of the said Lord Bishop of Peterborough for the time being and the person so to be nominated and appointed as aforesaid, upon the trusts hereinbefore declared concerning the same; and it is hereby declared, that the costs and charges attending the making every such transfer as aforesaid shall be paid out of the dividends and interest of the said stock.

Appointment of new Trustees of the Stock.

States that His Majesty is seised of the Advowson of the Parish of St. Mary-le-bone, and of Three Chapels within that parish, called Portland Chapel, Oxford Chapel, and Welbeck Chapel;

and is entitled to appoint the officiating Ministers of the said Chapels.

Benefits to arise from consecrating and appropriating the Chapels.

The Three Chapels vested in the Right Rev. Charles James Lord Bishop of London, the Right Hon. William Viscount Lowther, and the Rev. John Hume Spry, Rector of St. Mary-le-bone, as a body corporate:

In trust, after consecration, to permit Divine Service to be performed in the Chapels by the officiating Ministers for the time being;

AND whereas His Majesty is seised to Him, His heirs and successors, of the Advowson or perpetual right of nomination and appointment of the rector of the parish of Saint Mary-le-bone in the county of Middlesex; and is in like manner seised of all those three several Chapels, called respectively by the names of Portland Chapel, Oxford Chapel, and Welbeck Chapel, and the ground whereon the same respectively stand, situate in the same parish; and He is also entitled to all rents, profits and produce arising and payable from the said Chapels; and His Majesty is also entitled to the patronage and perpetual right of nomination and appointment, in right of such rectory or otherwise, of the several curates or officiating ministers of and to the said three several Chapels, in which divine service has for several years past been performed by such curates or ministers duly licensed for that purpose, although none of the said Chapels have been appropriated or consecrated: AND whereas it would tend materially to the advantage and accommodation of the inhabitant Householders of the said parish that the said Chapels, called Portland Chapel, Oxford Chapel, and Welbeck Chapel, should be respectively consecrated and appropriated for ever as Chapels wherein the Liturgy and rites of the United Church of England and Ireland may be used and observed; BE it therefore Enacted, that the said chapel commonly called Portland Chapel, situate and being in Great Portland-street in the said parish of Saint Mary-le-bone; and the said chapel commonly called Oxford Chapel, situate and being in Vere-street in the same parish; and also the said chapel commonly called Welbeck Chapel, situate and being in Westmoreland-street in the same parish, and the ground and soil whereon the same respectively stand, and all rents, profits and produce to arise and become payable in respect of the said Chapels and premises, together with all and singular vaults, areas, ways, passages, lights, easements and appurtenances whatsoever to the said Chapels and premises respectively in anywise belonging or appertaining, shall be and the same are hereby vested in the Right Reverend Charles James Lord Bishop of London, and the said William Viscount Lowther, First Commissioner of His Majesty's Woods Forests and Land Revenues, and the Reverend John Hume Spry, Doctor in Divinity, Rector of the parish of Saint Mary-le-bone aforesaid, in the said see, office and rectory, and their respective successors, as a corporate body, In trust, that the said Charles James Lord Bishop of London, William Viscount Lowther, and John Hume Spry, and their respective successors, shall, after consecration thereof, respectively permit divine service according to the rites of the United Church of England and Ireland to be performed therein by the curates or officiating ministers for the time being thereof, in the morning of every holiday, and in the morning and afternoon or evening of every Sunday, and also to preach a sermon in the morning and in the afternoon or evening of every Sunday immediately after

- after divine service throughout the year, and at such other time or times and to perform such other duties as the Lord Bishop of London for the time being shall from time to time direct; and to permit the Reverend John Crofts, clerk, who is the present curate or officiating minister of the said chapel called Portland Chapel, the Reverend John Percival, who is the present curate or officiating minister of the said chapel called Oxford Chapel, and the Reverend Thomas White, who is the present curate or officiating minister of the said chapel called Welbeck Chapel, to perform the said duties in the said chapels respectively during their respective lives, or until by cession or otherwise they shall respectively cease to be such curates or officiating ministers as aforesaid; and at all times afterwards to permit and suffer such persons, being of the Church of England, in priests orders and duly qualified, who for the time being shall be the curates or officiating ministers of the said chapels respectively under or by virtue of the nomination or appointment of His Majesty His heirs or successors, and who shall have been duly licensed to the said Chapels respectively by the proper ordinary, to officiate as such curates or ministers, and to perform the said duties in the said chapels: And upon further trust, that the said Trustees or the Trustees for the time being, or (subject to and under their control and direction) their treasurer for the time being, or such other person or persons as may be appointed by such Trustees for that purpose, do and shall demise and lease or agree to demise and lease the several Pews and Seats within the said chapels (except free sittings, for persons, which have been reserved in each of the said chapels, and have been approved of by the Commissioners of His Majesty's Woods Forests and Land Revenues) to any person or persons (but nevertheless in the letting of the said pews and seats, the parishioners of the said parish of Saint Mary-le-bone to be preferred to persons residing out of the said parish) for any term not exceeding One year from the time of such letting or agreement for letting, at the best rent or rents that can be reasonably obtained for the same, such rents nevertheless to be wholly paid in advance at the times at which such demises or agreements for letting shall be made or entered into; and do and shall in like manner demise and lease or agree to demise or lease all or any of the Vaults and Cellars under the said chapels for such term or terms of years, or any period less than a year, as the said Trustees shall think proper to grant therein, at the best yearly rent or rents that can be reasonably obtained for the same, such several rents so to be reserved as aforesaid to be payable to the Trustees for the time being on such days and times and in such manner as they shall appoint, the said Trustees or their receiver keeping separate accounts of what shall be received in respect of the rents so to be reserved as aforesaid on leases of the pews and seats in, and the vaults and cellars under the said three chapels respectively, so that the rents to be reserved in respect of each of the said chapels may be applied as after mentioned, for the exclusive benefit of such chapels respectively, or otherwise
- and to permit the present Ministers to officiate;
- and afterwards the persons to be appointed by the Crown.
- Powers for the Trustees to lease the Pews and Seats in the Chapels;
- and the Vaults and Cellars under the Chapels.
- 431.

Trustees may
appoint Re-
ceivers of the
Rents ;

and a Trea-
surer.

Mode of
applying the
Rents.

otherwise as hereinafter mentioned ; and that it shall be lawful for the said Trustees for the time being, by writing under their hands or the hands of any two of them, to appoint from time to time such persons as they shall think fit to be the receivers of such respective rents, and at their discretion to revoke the appointment of the persons so appointed, 5
and to appoint any other persons in their stead ; and also in like manner from time to time to appoint a treasurer of the said trust funds, and if they shall think fit, and at their discretion, to revoke such appointment and to appoint another person in his stead : And upon further trust, that the said trustees for the time being do and shall, by and out of the rents 10
and profits to be payable for the time being in respect of the said seats or pews and vaults and cellars, within, under or belonging to the chapels respectively, pay or cause to be paid all taxes, assessments and imposi-
tions now payable or hereafter to become payable in respect of the said chapels respectively ; and do and shall in the next place, from time 15
to time, by and out of such rents and profits, apply such sum or sums of money as the said Trustees or the trustees for the time being shall think fit in effecting any insurance of the said chapels, and the seats, pews, fur-
niture, and other articles and chattels therein, against loss or damage by fire, in any of the public offices of insurance in the cities of London or 20
Westminster, in such sum or sums of money as the said Trustees may in their discretion think proper, and do and shall pay the annual or other premiums for keeping such insurances on foot, and do and shall, in case of any such loss or damage by fire happening as aforesaid, apply the money
to be recoverable on the policy or policies of insurance in or towards re- 25
building or repairing the said chapels respectively to which such loss or damage by fire shall happen, and in repairing or replacing the seats, pews, furniture and other articles therein respectively which shall be so de-
stroyed or damaged, in order to restore the said premises to the same state and condition in which the same were previous to the time of the 30
happening of such fire ; and do and shall from time to time, by and out of such rents and profits, apply such sum or sums of money as the said Trustees for the time being shall think fit, in cleansing, glazing, painting, embellishing, whitewashing, sustaining and keeping in repair the said
chapels, both inside and outside, and the pews, galleries and every part 35
of the interior of the said chapels, and the furniture and other chattels therein, and the gates, rails, walls or other fences belonging to the said chapels respectively, and in making and keeping in repair all such al-
terations, additions and improvements in or to the said chapels as may
at any time hereafter be deemed proper or necessary by the said Trustees 40
or the trustees for the time being ; and do and shall in the next place, by and out of the said rents and profits, pay the expenses of purchasing and providing as far as may be requisite, Bibles and prayer books for the use of the said chapels, and surplices and vestments for the use of the said ministers or chaplains for the time being, and of providing from time to time such other articles as are or shall be deemed necessary
for

for the due and decent performance of divine service and the administration of the sacrament of the Lord's Supper in the said chapels according to the rites of the Church of England, and in paying all such other costs charges and expenses as shall be incurred by or under the

5 direction of the said Trustees, or the trustees for the time being, about the execution of the trusts herein declared, not otherwise provided to be paid; and do and shall in the next place, by and out of the said rents and profits, pay or cause to be paid to the said John Crofts, and to the said John Percival, and to the said Thomas White respectively,

10 or other the curates or ministers for the time being of the said chapels respectively, such annual sums by way of salaries or stipends for their services, not exceeding in the first instance the sum of *Three hundred and fifty* pounds for each such curate or minister, but with power for the Trustees for the time being, either for a limited period

15 or permanently, to increase such annual salaries or stipends to any sum not exceeding for any one of such curates or ministers, in case the trust funds or monies shall in the opinion of the said Trustees authorize such increase to any one or more of the said curates or ministers, such sums for the time being so payable to the said curates or

20 ministers respectively to be paid to them by equal half yearly payments free from all deductions, and the first half yearly payment thereof to be made on the now next ensuing;

and do and shall, out of the said rents and profits, pay to the receiver so to be appointed of such rents as aforesaid, and also to the treasurer

25 so to be appointed as aforesaid, and to the clerks, organists, and all other persons whom it shall be deemed necessary to be employed in and about the said chapels, and may be engaged to assist in the celebration of divine service, and to such pew-openers as shall or may be employed to attend the said chapels, which clerks, organists and pew-openers shall

30 be appointed by the ministers for the time being of the said chapels respectively, and shall be removable at the pleasure of the said ministers for the time being or of the rector of the said parish of Saint Mary-le-bone for the time being, such yearly salaries or wages as to the said Trustees or the trustees for the time being shall seem proper; and after payment

35 of the sums hereinbefore directed to be paid and applied as aforesaid out of the said rents and profits of the said chapels respectively, and after payment of such costs and charges as aforesaid, the said Trustees or the trustees for the time being, or their treasurer (subject to and under their control and direction) shall from time to time lay out and invest the

40 residue of the rents and profits to arise from letting the said pews or seats within the said three chapels respectively, in the purchase of Three per centum consolidated or reduced Bank Annuities, in the names of the said Trustees for the time being, and shall receive the interest and dividends of such Bank Annuities, and the interest and dividends of the Bank Annuities to be purchased as after mentioned, and lay out and invest the same from time to time in the purchase, in their names, of like

Bank Annuities, to the intent that such several Bank Annuities may accumulate.

Trusts declared of the Bank Annuities to be purchased.

And it is hereby further Enacted, That the said several Bank Annuities so to be purchased as last aforesaid shall be held by the said Trustees for the time being of the said chapels, in such shares as shall appear to have resulted from the surplus of the rents and profits arising from the seats, pews, vaults and cellars of such chapels respectively, as a fund, by sale or transfer whereof to raise money from time to time for defraying the costs and expenses of rebuilding or reinstating the said chapels, and the seats, pews, organs and other furniture and chattels therein, in case the same or any of them shall be wholly destroyed or injured by fire or other accident, or in rebuilding or substantially repairing the said chapels when the same may become dilapidated, and in fitting new pews or seats, and providing other internal chattels, ornaments or conveniences, as may be deemed requisite: Provided nevertheless, That if at any time or times it shall happen that the rents and profits payable in respect of the said seats or pews and vaults or cellars shall be insufficient to discharge the annual or other payments hereinbefore directed to be made thereout respectively, together with the costs charges and expenses of the Trustees for the time being in execution of the trusts hereinbefore declared, it shall be lawful for the Trustees for the time being of the said Bank Annuities, by and out of the dividends, or by sale and transfer of a competent part of the capital thereof that shall be held in trust for the chapel, the rents and profits of which shall be so insufficient as aforesaid, to levy and raise from time to time such a sum or sums of money as shall enable them to satisfy and discharge the deficiency, and to pay and apply the sum or sums of money so to be levied and raised in payment and satisfaction of such deficiency accordingly.

Powers for the Trustees to let the Pews and Seats of the Chapels at reduced Rents.

Provided always, and it is hereby further Enacted, That if in the judgment of the Trustees, or the trustees for the time being, the continuing to let the pews or seats in the said chapels, or in any one or more of them, at the best rents that can be obtained, shall not be necessary for the purposes intended, it shall be lawful for them to let the same at such reduced rents as shall appear to them to be proper, without taking any fine or premium, in order that the inhabitant householders of the said parish may be accommodated with such seats or pews upon more moderate terms; and that the regulation of all matters and things relating to the said chapels (subject nevertheless to the particular directions and regulations herein contained) shall be under the direction of the said Trustees, or the trustees for the time being, and that every order to be made, or act to be done by the said Trustees, or the trustees for the time being, shall be made or done at some meeting to be holden for the purpose of executing the trusts herein expressed; but the

Power of making general regulations vested in the Trustees.

the orders and acts made or authorized by two of the said Trustees, if two only shall be present at such meeting, or the orders and acts made or authorized by a majority of the three Trustees, if all the three Trustees shall be present at any such meeting, shall be as effectual as if all the three Trustees for the time being had concurred therein, provided that all the said Trustees shall have had previous notice in writing of the time and place of such meeting.

Provided always, and it is hereby further Enacted, That a meeting of the said Trustees, or the trustees for the time being, shall be holden in the Vestry rooms of the said chapels, or in some other convenient place within the said parish, on some convenient day or days of the month of in every year, for the purpose of inspecting the state and condition of the said chapels and premises, and of directing the repairs thereof (such repairs, if exceeding by estimate the sum of for each chapel, to be done by contract, in writing under the hands of workmen undertaking the same, and specifying the precise sum for which the same are to be done) and for auditing the accounts and paying the bills of the then preceding year, and generally for settling the affairs and concerns of the said trust premises; and upon every which occasion accounts shall be regularly made up with respect to each of the said three chapels, and the balance struck and entered in the books hereinafter directed to be kept and signed by the Trustees present at such meeting; and further, that a proper book shall be kept at all times in a box or chest in the vestry room of each chapel, for entering all transactions, matters or things done or to be done, and all costs and expenses, payments and disbursements, and other matters and things relating to the business and affairs of the said chapels respectively, to which books the Trustees for the time being shall have free access, at reasonable times of the day, to peruse, examine and copy out the same; and that all vouchers and receipts for payments and disbursements on account of each chapel shall be at all times kept in the said box or chest to be deposited in the vestry room of each chapel, of which box or chest each of the Trustees for the time being shall have a key.

Appointing times of Meetings of the Trustees, and specifying their Duties at such Meetings.

And it is hereby further Enacted, That the said Trustees, or the trustees for the time being, shall apply, or their Treasurer for the time being shall (subject to and under their control and direction) apply all monies which shall or may come to their hands as Trustees, by donation or bequest, and regarding which no other mode of application shall be directed by the donors or testators, upon or for such trusts intents and purposes as are hereinbefore declared concerning the surplus of the aforesaid rents and profits hereinbefore directed to be laid out and invested in the purchase of Bank Annuities as aforesaid, or upon and for such other trusts intents and purposes with reference to the said chapels and the benefit and advantage of the ministers for the time being,

Mode of applying Monies which may come to the hands of the Trustees by Donation or Bequest, where not otherwise directed by the Donor or Testator.

being, and to the comfort and convenience of such persons as shall resort thereto, as the said Trustees for the time being, with the consent of the Lord Bishop of London for the time being, shall think proper.

Provision vesting the Chapels in the Bishop of London and the Rector of St. Mary-le-bone for the time being as a body corporate, in the event of a discontinuance of the Board of Commissioners of His Majesty's Woods Forests and Land Revenues.

Provided always, and it is hereby further Enacted, That if at any time hereafter the Board commonly called "The Commissioners of His Majesty's Woods Forests and Land Revenues" shall be discontinued, the said chapels and premises hereinbefore vested in the said Charles James Lord Bishop of London, William Viscount Lowther, and John Hume Spry, and their successors as aforesaid, shall immediately upon such discontinuance become vested in the said Lord Bishop of London and the Rector of the said parish of Saint Mary-le-bone for the time being, and their respective successors, as a body corporate, and that from thenceforth such Lord Bishop and Rector, and their respective successors, shall hold the said chapels and premises with their respective appurtenances upon the same trusts upon which the same premises are hereinbefore vested in the said Charles James Lord Bishop of London, William Viscount Lowther, and John Hume Spry, or such of the said trusts as shall be then subsisting or capable of taking effect; and that from thenceforth all the powers and authorities hereinbefore vested in the said Charles James Lord Bishop of London, William Viscount Lowther, and John Hume Spry, and their successors as aforesaid, or such of the said powers and authorities as shall be then subsisting or capable of taking effect, shall vest exclusively in the Lord Bishop of London and the Rector of the said parish of Saint Mary-le-bone for the time being, and their respective successors, as a body corporate.

The Trustees to be indemnified against Costs, &c.

Provided always, and it is hereby further Enacted, That it shall be lawful to and for the said Trustees and such future Trustees as aforesaid, by and out of the said trust monies and premises to deduct and retain to themselves respectively all such costs and expenses as shall be incurred by them or any of them in the execution of any of the trusts aforesaid, and that they or any of them shall not be responsible for any such treasurer or receiver as aforesaid, and that the said Trustees or any of them shall not be chargeable further than with or for their own respective receipts, acts or defaults, and that they or any of them shall not be accountable for any loss in depositing the said trust monies or any part thereof with any banker for safe custody, nor for any other involuntary loss or misfortune in any of the said trust transactions; and that the receipts of the Trustees for the time being, or of any one of them, or of their Treasurer, for all monies to be paid to them or him, shall be effectual discharges to the person or persons paying the same.

Proviso securing to the Rector of St. Mary-le-bone Surplice Fees, &c.; and

Provided always, and it is hereby further Enacted, That nothing hereinbefore contained shall authorize the Ministers for the time being of the said chapels respectively to receive or claim any surplice or other fees

fees or emoluments, of right or by custom due or payable to the rector for the time being of the said parish of Saint Mary-le-bone, but that the rector for the time being shall at all time hereafter continue entitled to such surplice fees or emoluments, and to receive the customary fees payable in respect of any license or authority given by him for erecting within or outside the said chapels any monuments, to which fees he may be entitled as rector of the said parish; and that the said rector of the said parish for the time being shall be entitled to the privilege of preaching in the said chapels as often as he shall think proper; and further, that nothing hereinbefore contained shall prejudice or affect any of the rights, privileges or benefits which the four ministers for the time being of the four district Churches established under the provisions of an Act passed in the first and second year of the reign of His present Majesty, intituled, "An Act to enable the Vestrymen of the parish of Saint Mary-le-bone in the county of Middlesex to effectuate the building of four District Churches in the said parish, and for other purposes relating thereto," are or may be entitled to use, exercise and enjoy under or by virtue of the provisions of the said Act.

Saving the Rights of the four district Ministers in that parish established by the 1st & 2d of Geo. IV.

AND whereas His Majesty is seised to Him, His heirs and successors, in right of His Crown, of a certain estate called Sunk Island, situate in the River Humber, on part of which estate the lessees of the Crown and their tenants have at their own expense erected a Chapel, called Chapel, and have appropriated and inclosed a piece of land as a Burial-ground thereto: AND whereas it would be greatly for the benefit and advantage of the inhabitants for the time being of Sunk Island, that the said island should be constituted a Parish, and that the said Chapel should be consecrated as a Church, and be set apart as a place of divine worship; and that an annual stipend should be provided for the officiating minister for the time being of the said Parish Church, and that other provisions should be made concerning the same; BE it therefore further Enacted, That the said island, called Sunk Island, shall from and after the *passing of this Act* be formed into and be made and become a parish, to be called "the Parish of Sunk Island, in the county of York."

Statement, that His Majesty is seised in fee in right of the Crown of an estate called Sunk Island, in the River Humber, upon which the Lessees have erected a Chapel.

Benefit to result from constituting Sunk Island a Parish, and for setting apart the Chapel as a Church for Divine Worship, and providing a Stipend for the Minister.

Sunk Island constituted a Parish.

And be it further Enacted, That the said Chapel so erected and built as last aforesaid shall from and after the *passing of this Act* be called "The Parish Church of Sunk Island, in the province of York and archdeaconry of _____," and that the said Church shall be kept in repair, and the pulpit, seats, pews, galleries, bells and other furniture and chattels in and belonging to the said church shall be repaired and renewed from time to time, and the church-yard or burial-ground kept in repair and well fenced, at the costs and charges of the inhabitants of the said parish; and that the amount of all such costs and charges as aforesaid shall be paid by the inhabitants

The Chapel to be called the Parish Church of Sunk Island.

of the said parish for the time being, according to an annual assessment to be made upon them by the churchwardens for the time being, and shall be recovered by such and the same means as any other parochial charge is by law authorized to be recovered.

The Church
endowed as
a place of
Worship.

And be it further Enacted, That the said Church shall be endowed 5
and the same is hereby endowed with all and singular the privileges,
rights, profits and advantages thereunto belonging or appertaining, ac-
cording to and for the purposes of this Act, and shall be set apart and
dedicated to and for the service of Almighty God as and for a place of 10
divine worship according to the rites and ceremonies of the United
Church of England and Ireland, for ever (the same being first duly
consecrated according to the usage of the Church of England) and shall
and is hereby declared to be a separate and distinct perpetual cure and
benefice under the name of "The Church of Sunk Island;" and that 15
the present and every future minister of the said church shall be
deemed and taken by virtue of this Act to be incorporated and made
a body politic and corporate by the name of "The officiating Minister
of the Church of Sunk Island," and shall have perpetual succession and
be enabled to sue by that name in all courts of this realm; and 20
the said Church and Church-yard or Burial-ground belonging thereto
shall be vested in the said minister and his successors for the time being
for ever; and the said Church and the minister thereof, and also the
person or persons who shall act as or in the nature of a churchwarden
thereof for the time being, shall be under and subject to the order and
jurisdiction of the said Lord Archbishop of York and the Archdeacon 25
of _____ and their successors for the time being, and shall be
visited as other churches and chapels within the said province of York
and archdeaconry are visited.

The Advowson
of the Church
vested in His
Majesty.

And be it further Enacted, That the Advowson, right of patronage,
free disposition and nomination of, in, and to the said Church, shall from 30
and immediately after the *passing of this Act* appertain to and the same
are hereby vested in The King's most Excellent Majesty, His heirs and
successors, for ever freed and absolutely acquitted and released from and
against all estates, interests claims and demands whatsoever of any
person or persons whomsoever, except as ordinary of the said church, 35
and such other ecclesiastical jurisdiction as may be necessary.

After Conse-
cration, Mar-
riages to be
celebrated and
solemnized.

And be it further Enacted, That from and after the consecration of
the said Church, banns of matrimony may be published and marriages
celebrated therein, in such manner and under such restrictions and re-
gulations as the same can or may by law be published or celebrated in 40
parish churches or public chapels where banns and marriages are
published and celebrated; and that every such marriage shall be valid
to all intents and purposes whatsoever; provided that all such banns
and

and marriages shall be published and celebrated according to the laws and canons in force within this realm in that behalf.

And be it further Enacted, That all marriages, christenings and burials had and solemnized within the said church, shall be registered in public registers to be provided and kept for that purpose, in manner and for the purposes as by law directed.

Registers to be provided.

And be it further Enacted, that as soon as conveniently may be after the passing of this Act, the Commissioners of His Majesty's Woods Forests and Land Revenues shall, out of the produce of the land revenues of the Crown, purchase the capital sum of *Eight thousand three hundred thirty-three pounds six shillings and eight-pence* in the Three pounds per centum consolidated Bank Annuities, in the joint names of The honourable Edward Lord Archbishop of York, or the Lord Archbishop of York for the time being, and of the said William Viscount Lowther, First Commissioner of His Majesty's Woods Forests and Land Revenues, or the First Commissioner for the time being thereof; and that the Trustees for the time being of the said last mentioned capital sum shall pay the dividends and interest thereof to the officiating minister for the time being of the said last mentioned church, or authorize and empower him to receive the same, as and when the same shall become due and payable, as and for a stipend or salary for the performance of his sacred duties.

Commissioners of Woods Forests and Land Revenues to purchase 8,333*l.* 6*s.* 8*d.* in the 3 per Cent Consolidated Bank Annuities, in the joint names of the Archbishop of York and William Viscount Lowther, as Trustees, and the Dividends to be paid to the Minister of the Church as his Salary.

Provided always, and be it further Enacted, That on the death, cession or translation of the said Edward Lord Archbishop of York, or of any future Lord Archbishop of York, or on the death or cesser to act of the said William Viscount Lowther as such First Commissioner as aforesaid, or of any future First Commissioner of His Majesty's Woods Forests and Land Revenues, the said last-mentioned capital sum of *Eight thousand three hundred thirty-three pounds six shillings and eight-pence* shall be forthwith and from time to time transferred so as to become vested in the joint names of the Lord Archbishop of York and the First Commissioner of His Majesty's Woods Forests and Land Revenues for the time being, upon the trusts hereinbefore declared concerning the same: Provided nevertheless, That if at any time hereafter the Board commonly called "The Commissioners of His Majesty's Woods Forests and Land Revenues," shall be discontinued, it shall be lawful for the Lord High Treasurer or the Commissioners of the Treasury for the time being, by any writing under his or their hand or hands, to nominate and appoint from time to time some person to act as trustee with the Lord Archbishop of York for the time being, and also upon the death, removal or declining to act of the person so to be appointed, or of any other person to be thereafter nominated and appointed in pursuance of this present power, to nominate and appoint from time to

Appointment of new Trustees of the Stock.

time some other person to act as trustee with the Lord Archbishop of York for the time being, and that upon every nomination and appointment being so made as aforesaid, the said last-mentioned capital sum of *Eight thousand three hundred thirty-three pounds six shillings and eight-pence* shall be forthwith transferred so as to become vested in the joint 5 names of the said Lord Archbishop for the time being and the person so to be nominated and appointed as aforesaid, upon the trusts hereinbefore declared concerning the same; and it is hereby declared, that the costs and charges attending the making every such transfer as last aforesaid shall be paid out of the dividends and interest of the said last- 10 mentioned stock.

Public Act. And be it further Enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices and others, without being specially pleaded.

7 June 1830.

32.5



A

B I L L

[AS AMENDED BY THE COMMITTEE]

For endowing the Parish Church of *Newborough*, in the County of *Northampton*, and three Chapels, called *Portland* Chapel, *Oxford* Chapel, and *Welbeck* Chapel, situate in the Parish of *Saint Mary-le-bone*, in the County of *Middlesex*, and also a Chapel erected on *Sunk* Island, in the River *Humber*.

N. B.—*The Clauses marked (A. to D.) were added by the Committee.*

WH **H**EREBY by an Act passed in the fifty-second year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act for draining, inclosing and improving the Lands called Borough Fen Common, and the Four Hundred Acre Common, in the County of *Northampton*, and for forming the same into a Parish to be called *Newborough*, and for building and endowing a Church for such Parish," it was amongst other things enacted, that when and so soon as the Commissioners therein named should have ascertained the rights and interests of the several persons, bodies politic corporate and collegiate, interested in the said common and waste lands thereby authorized to be drained and inclosed, the said common and waste lands should be formed into and be made and become a Parish to be called the Parish of *Newborough* in the county of *Northampton* and in the diocese of *Peterborough* and archdeaconry of *Northampton*; and it was by the said Act (amongst other things) further enacted, that in case the right to tithes thereinbefore referred to should not be established by The KING's most EXCELLENT MAJESTY, or by any person or persons claiming tithes as thereinbefore mentioned, then the Commissioners of the said Act should set out, allot and award

Preamble.
Newborough Forest Act.

5
10
15

502. A unto

unto and for the Lord Bishop of *Peterborough* certain parts of the said common and waste lands for the purposes of erecting a Church and Parsonage House, and for a Church-yard and Burial-ground, and certain other parts of the said common and waste lands for the benefit of the officiating minister for the time being, to be appointed to the said Church, and certain other parts of the said common and waste lands, the rents and profits of which were to be taken by the parish clerk to be appointed to the said Church : 5

And whereas by the verdict of a jury given at the assizes held at *Northampton* in the month of July one thousand eight hundred and fourteen, his late Majesty was found to be entitled to the tithes of the said commons and waste lands; and His present Majesty is seised of the said tithes to Him, His heirs and successors, in right of His Crown : 10

And whereas soon after the passing of the said Act, the Commissioners appointed for carrying the same into execution ascertained the rights and interests of the several persons, bodies politic corporate and collegiate, interested in the said common and waste lands, whereupon the said common and waste lands was formed into and is now become a Parish, under the provision for that purpose contained in the said Act, and is now called the Parish of *Newborough* : 15 20

And whereas in consequence of the Crown having established its right and claim to the aforesaid tithes, no allotments were made under the said Act of Parliament, for the purpose of erecting such Church and other buildings as aforesaid, or for the purpose of making such endowment as aforesaid : 25

That a Parish Church has been built at the expense of the Crown on lands belonging to the Crown.

And whereas His present Majesty having been desirous that a Parish Church, to be called the Parish Church of *Newborough*, should be erected for the purposes of divine worship, the Commissioners of His Majesty's Woods Forests and Land Revenues have applied the sum of One thousand two hundred and five pounds in building and finishing a Parish Church, and in fitting up and furnishing the same with a pulpit, seats, pews, galleries, bells and other necessary appurtenances, upon one acre of land situate in the said parish of *Newborough*, lying on the north-west corner of a piece of land belonging to His Majesty called the Forty Acres, bounded on the west by Gunter's Road, on the north by Crown Road, and on the east and south by other part of the said Forty Acres; and such part of the said piece of land containing one acre as does not form the site of the said Parish Church, has been inclosed or partly inclosed as a Church-yard and Burial-ground : 30 35

Benefit to result from setting apart the Church as a

And whereas it would be greatly for the benefit and advantage of the Inhabitants for the time being of the said parish of *Newborough*, th at

that the said Church should be consecrated and set apart as a place of divine worship, and that an annual stipend should be provided for the officiating minister for the time being of the said parish church, and that other provisions should be made concerning the same;

place of worship, and for providing a Stipend for the Minister.

5 May it therefore please Your MAJESTY,

That it may be Enacted; ~~And be it Enacted~~, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said Church
 10 so erected and built as aforesaid shall be called "The Parish Church of *Newborough*, in the diocese of *Peterborough*, in the archdeaconry of *Northampton* and county of *Northampton*," and that so much of the said piece of land containing one acre or thereabouts, as does not
 15 ever hereafter used as a church-yard and burial-ground to the said Church; and that the said Church shall be kept in repair, and the pulpit, seats, pews, galleries, bells and other furniture and chattels in or belonging to the said Church, shall be repaired or renewed from time to time, and the church-yard kept in repair, at the costs and
 20 charges of the inhabitants of the said parish; and that the east and south sides of the said church-yard shall forthwith, at the costs and charges of the said inhabitants, be fenced with a good ditch not less than three feet and a half in perpendicular depth, and that a double row of whitethorn quick shall be planted on the side thereof next the church-yard, and that
 25 the fences that have been made or set up on the north and west sides of the said church-yard, and the ditch and fences so to be made or set up on the east and south sides of the said church-yard, shall be kept in good repair and condition at the costs and charges of the said inhabitants; and that the amount of all such costs and charges as aforesaid
 30 shall be paid by the inhabitants of the said parish for the time being according to an annual assessment to be made upon them by the church-wardens for the time being, and shall be recovered by such and the same means as any other parochial charge is by law authorized to be recovered.

The Church to be called the Parish Church of Newborough.

Part of the ground to be used as a Church-yard and Burial-ground.

35 And be it further Enacted, That the said Church shall be endowed and the same is hereby endowed with all and singular the privileges, rights, profits and advantages thereunto belonging or appertaining, according to and for the purposes of this Act, and shall be set apart and dedicated to and for the service of Almighty God as and for a place of
 40 divine worship according to the rites and ceremonies of the United Church of *England* and *Ireland*, for ever (the same being first duly consecrated according to the usage of the Church of *England*), and shall

The Church endowed as a place of Worship.

The Minister
to be incorpo-
rated.

and is hereby declared to be a separate and distinct perpetual cure and benefice, and shall be called by the name of "The Church of *Newborough*;" and that every minister of the said Church shall be deemed and taken by virtue of this Act to be incorporated and made a body politic and corporate by the name of "The Officiating Minister of the Church of *Newborough* in the county of *Northampton*," and shall have perpetual succession, and be enabled to sue by that name in all courts of this realm; and the said Church, and church-yard or burial-place belonging thereto, shall be vested in the said minister and his successors for the time being for ever; and the said Church and the minister thereof, and also the person or persons who shall act as or in the nature of a churchwarden thereof for the time being, shall be under and subject to the order and jurisdiction of the said Lord Bishop of *Peterborough* and Archdeacon of *Northampton* and their successors for the time being, and shall be visited as other churches or chapels within the said diocese and archdeaconry are visited.

The Advow-
son to the
Church vested
in His Majesty.

And be it further Enacted, That the Advowson, right of patronage, free disposition and nomination of, in, and to the said Church shall from and immediately after the passing of this Act appertain to and the same are hereby vested in The KING's most EXCELLENT MAJESTY, His heirs and successors, for ever freed and absolutely acquitted and released from and against all estates interests claims and demands whatsoever of any person or persons whomsoever, except as ordinary of the said Church, and such other ecclesiastical jurisdiction as may be necessary.

After Confe-
ration, Mar-
riages to be
celebrated and
solemnized.

And be it further Enacted, That from and after the consecration of the said Church, banns of matrimony may be published and marriages celebrated therein, in such manner and under such restrictions and regulations as the same can or may by law be published or celebrated in parish Churches or public Chapels where banns and marriages are published and celebrated; and that every such marriage shall be valid to all intents and purposes whatsoever; provided that all such banns and marriages shall be published and celebrated according to the laws and canons in force within this realm in that behalf.

Registers to
be provided.

And be it further Enacted, That all marriages and christenings had and solemnized within the said Church, and all funerals solemnized within the said Church and church-yard shall be registered in public registers to be provided and kept for that purpose, in manner and for the purposes as by law directed.

Commissioners of
Woods Forests
and Land Revenues
to purchase
£. 8,333. 6s. 8d.
3 per Cent Conso-
lidated Bank An-
nuities in the joint
names of the Bishop

And be it further Enacted, That as soon as conveniently may be after the passing of this Act, the Commissioners of His Majesty's Woods Forests and Land Revenues shall, out of the produce of the land revenues of the Crown, purchase the capital sum of Eight thousand three hundred thirty-three pounds six shillings and eight-pence in the Three pounds per centum

centum consolidated Bank Annuities, in the joint names of The Right reverend *Herbert Marsh*, doctor in divinity, Lord Bishop of *Peterborough*, or the Lord Bishop of *Peterborough* for the time being, and the Right honourable *William Lowther*, commonly called Viscount

of *Peterborough* and *William Viscount Lowther*, as Trustees, and the Dividends to be paid to the Minister of the Church as his Salary.

- 5 *Lowther*, First Commissioner of His Majesty's Woods Forests and Land Revenues, or the First Commissioner for the time being thereof, as trustees thereof; and that the trustees for the time being of the said capital sum shall pay the dividends and interest thereof to the officiating minister for the time being of the said Church of *Newborough*,
10 or authorize and empower him to receive the same as and when the same shall become due and payable, as and for a stipend or salary for the performance of his sacred duties.

Provided always, and be it further Enacted, That on the death, cession or translation of the said *Herbert* Lord Bishop of *Peterborough*,

Appointment of new Trustees of the Stock.

- 15 or of any future Lord Bishop of *Peterborough*, or on the death or cesser to act of the said *William* Viscount *Lowther*, as such First Commissioner as aforesaid, or of any future First Commissioner of His Majesty's Woods Forests and Land Revenues, the said capital sum of Eight thousand three hundred thirty-three pounds six shillings and
20 eight-pence shall be forthwith and from time to time transferred, so as to become vested in the joint names of the Lord Bishop of *Peterborough* and the First Commissioner of His Majesty's Woods Forests and Land Revenues for the time being, upon the trusts hereinbefore declared concerning the same: Provided nevertheless, That if at any time here-
25 after the Board, commonly called "The Commissioners of His Majesty's Woods Forests and Land Revenues," shall be discontinued, it shall be lawful for the Lord High Treasurer or the Commissioners of the Treasury for the time being, by any writing under his or their hand or
30 hands, to nominate and appoint some person to act as trustee with the said Lord Bishop of *Peterborough* for the time being, and also upon the death, removal or declining to act of the person to be appointed, or of any other person to be thereafter nominated and appointed in
35 pursuance of this present power, to nominate and appoint from time to time some other person to act as trustee with the Lord Bishop of *Peterborough* for the time being; and that upon every such nomination and appointment being so made as aforesaid, the said capital sum of Eight thousand three hundred thirty-three pounds six shillings and
40 eight-pence shall be forthwith transferred so as to become vested in the joint names of the said Lord Bishop of *Peterborough* for the time being and the person so to be nominated and appointed as aforesaid, upon the trusts hereinbefore declared concerning the same; and it is hereby declared, that the costs and charges attending the making every such transfer as aforesaid shall be paid out of the dividends and interest of the said stock.

States that His Majesty is seised of the Advowson of the Parish of St. Mary-le-bone, and of Three Chapels within that parish, called Portland Chapel, Oxford Chapel, and Welbeck Chapel;

Benefits to arise from consecrating and appropriating the Chapels.

The Three Chapels vested in the Trustees,

AND whereas His Majesty is seised to Him, His heirs and successors, of the Advowson or perpetual right of nomination and appointment of the rector of the parish of *Saint Mary-le-bone* in the county of *Middlesex*; and is in like manner seised of all those three several Chapels, called respectively by the names of *Portland Chapel*, *Oxford Chapel*, and *Welbeck Chapel*, and the ground whereon the same respectively stand, situate in the same parish; and divine service has for several years past been performed in the said Chapels by curates or ministers duly licensed for that purpose, although none of the said Chapels have been appropriated or consecrated: AND whereas the said two Chapels called *Portland Chapel* and *Oxford Chapel*, are situate within the district which hath been assigned to the district church, called by the name of "*All Souls Church in Saint Mary-le-bone*," established under the provisions of an Act passed in the first and second years of the reign of His present Majesty, intituled, "An Act to enable the Vestrymen of the parish of *Saint Mary-le-bone*, in the county of *Middlesex*, to effectuate the building of Four District Churches in the said parish, and for other purposes relating thereto;" and under an Act passed in the sixth year of the reign of His present Majesty, intituled, "An Act for making the Four Districts in the parish of *Saint Mary-le-bone*, in the county of *Middlesex*, distinct Rectories for certain purposes;" but the said Chapel called *Welbeck Chapel*, though situate in the said parish of *Saint Mary-le-bone*, is not situate within any of the four district Rectories established by the said Acts: AND whereas it would tend materially to the advantage and accommodation of the inhabitant Householders of the said parish that the said Chapels, called *Portland Chapel*, *Oxford Chapel*, and *Welbeck Chapel*, should be respectively consecrated and appropriated for ever as Chapels wherein the Liturgy and rites of the United Church of *England* and *Ireland* may be used and observed; BE it therefore Enacted, that the said Chapel commonly called *Portland Chapel*, situate and being in *Great Portland-street* in the said parish of *Saint Mary-le-bone*; and the said chapel commonly called *Oxford Chapel*, situate and being in *Vere-street* in the same parish; and the ground and soil whereon the same respectively stand, and all rents, profits and produce to arise and become payable in respect of the said two Chapels, together with all and singular vaults, areas, ways, passages, lights, easements and appurtenances whatsoever to the same Chapels and premises respectively in anywise belonging or appertaining shall be and the same are hereby vested in the said *William Viscount Lowther*, First Commissioner of His Majesty's Woods Forests and Land Revenues, and in the very Reverend *George Chandler*, Doctor in Divinity, Rector of the said district church of *All Souls*, in *Saint Mary-le-bone*, and their respective successors in the said office and district rectory, as a body corporate; and that the said Chapel called *Welbeck Chapel*, situate in *Westmoreland-street*, in the said parish, and the ground and soil whereon the same stands, and all rents, profits and produce to arise and become

become payable in respect of the same Chapel, together with all and singular vaults, areas, ways, passages, lights, easements and appurtenances whatsoever to the same Chapel and premises in anywise belonging or appertaining, shall be and the same are hereby vested in the said *William Viscount Lowther* as such Commissioner as aforesaid, and the Reverend *John Hume Spry*, Doctor in Divinity, Rector of the parish of *Saint Mary-le-bone* aforesaid, and their respective successors in the said office and rectory as a body corporate; to the intent and purpose that after consecration of the said three Chapels respectively divine service according to the rites of the United Church of *England* and *Ireland* shall be performed therein by the curates or officiating ministers for the time being thereof, in the morning of every holiday, and in the morning and afternoon or evening of every Sunday, who shall preach a sermon in the morning and in the afternoon or evening of every Sunday immediately after divine service throughout the year, and at such other time or times, and shall perform such other duties as the Lord Bishop of *London* for the time being shall from time to time direct; and it is hereby declared, that the Reverend *John Crofts*, clerk, who is the present curate or officiating minister of the said chapel called *Portland* Chapel, the Reverend *John Percival*, who is the present curate or officiating minister of the said chapel called *Oxford* Chapel, and the Reverend *Thomas White*, who is the present curate or officiating minister of the said chapel called *Welbeck* Chapel, shall perform the said duties in the said chapels respectively during their respective lives, or until by cession or otherwise they shall respectively cease to be such curates or officiating ministers as aforesaid; and at all times afterwards that such persons, being of the Church of *England*, in priests orders and duly qualified, who for the time being shall be the curates or officiating ministers of the said chapels respectively under or by virtue of the nomination or appointment of His Majesty His heirs or successors, and who shall have been duly licensed to the said Three Chapels respectively by the Lord Bishop of *London* for the time being, to officiate as such curates or ministers, and to perform the said duties in the said chapels.

and after consecration, to permit Divine Service to be performed in the Chapels by the officiating Ministers for the time being;

the present Ministers to officiate;

and afterwards the persons to be appointed by the Crown.

And be it further Enacted, That Pews, Sitings or Benches, in every of the said Chapels, to be marked with the words "Free Seats," amounting in the whole to not less than one sixth part of the whole of the sitings in each Chapel, shall be appropriated and set apart for the use of poor persons resorting thereto, and for which pews, sitings or benches no rent or assessment whatsoever shall at any time be charged or imposed; and that the pews or seats in each of the said Chapels (save and except the pews or sitings so to be set apart for the use of poor persons, and save and except the pews set apart or to be set apart for the use of the curates or officiating ministers of the said Chapels for the time being or their respective families) shall for ever be charged and chargeable in the several and respective yearly rents or sums to be set

CLAUSE (A.)
Free Sitings to be provided for Poor Persons;

other Pews to be let.

opposite to the figures or numbers to be marked upon each of the said pews or seats as they shall be particularly numbered or set down with reference to the said three Chapels respectively, in Lists or Schedules to be made and signed by the Trustees for the time being of the said Chapels respectively, and annexed to the deeds of consecration of such Chapels respectively (such Lists or Schedules nevertheless to be subject to the approval of the Lord Bishop of *London* for the time being); all which said respective yearly rents or sums shall be paid by the possessors and occupiers of the pews or seats, to the said Trustees for the time being or to their receiver, to their or his receipt or receipts, by two equal half-yearly payments in each year, namely, on the Monday next after the Nativity of our Saviour *Christ* and the Nativity of *Saint John the Baptist*, but each of which half-yearly payments is to be paid in advance and to be computed from the respective times of letting such pews or seats.

CLAUSE (B.)

Power for the Trustees to alter Pew rents, with the consent of the officiating Ministers and of the Bishop of *London* for the time being.

Provided always, and be it further Enacted, That it shall be lawful for the Trustees for the time being of the said Chapels respectively, with the consent in writing of the curates or officiating ministers thereof respectively, and also of the said Lord Bishop of *London* for the time being, to alter any such yearly rents or sums, and in every such case a new List or Schedule of rents or sums and the pews or seats on which the same shall be respectively charged, shall be signed by the said curates or officiating ministers of the said Chapels respectively, and the said Lord Bishop of *London* for the time being, and shall be deposited with the deed of consecration of the Chapel in respect of which such yearly rents or sums shall be altered; such last-mentioned rents to be paid by such half-yearly payments as aforesaid.

CLAUSE (C.)

Mode of recovering Pew rents in arrear.

And be it further Enacted, That in case the rent of any such pew or seat or any part thereof, shall happen to be behind and unpaid by the space of three months next after the same shall become due, and notice in writing demanding payment thereof shall have been given to the owner or occupier of such seat or pew, then the said Trustees for the time being of the said Chapels shall and may enter upon and hold such seat or pew and let the same to any other person or persons in such manner as such Trustees shall think proper; and that it shall be lawful for the said Trustees to recover the said rent so in arrear, by action of debt or upon the case, for the use and occupation of such pew or seat, to be brought against the owner or owners or any occupier or occupiers thereof in the names of the Trustees for the time being.

Trustees to keep accounts of rents of pews.

And be it further Enacted, That the said Trustees or their receiver shall keep separate accounts of what shall be received in respect of the rents so to be reserved as aforesaid on leases of the pews and seats in the said three chapels respectively, so that the rents to be reserved in respect of each of the said chapels may be applied as after-mentioned,

- mentioned, for the exclusive benefit of such chapels respectively, or otherwise as hereinafter mentioned; and that it shall be lawful for the said Trustees for the time being of the said chapels respectively, by writing under their hands, to appoint from time to time such persons as they shall think fit to be the receivers of such respective rents, and at their discretion to revoke the appointment of the persons so appointed, and to appoint any other persons in their stead; and also in like manner from time to time to appoint a treasurer of the said trust funds, and if they shall think fit, and at their discretion, to revoke such appointment and to appoint another person in his stead: And upon further trust, that the said trustees for the time being of the said chapels respectively do and shall, by and out of the rents and profits to be payable for the time being in respect of the said seats or pews, apply such sum or sums of money as the said respective Trustees for the time being shall think fit in effecting any insurance of the said chapels, and the seats, pews, organs, furniture, and other articles and chattels therein, against loss or damage by fire, in any of the public offices of insurance in the cities of *London* or *Westminster*, in such sum or sums of money as the said Trustees may in their discretion think proper, and do and shall pay the annual or other premiums for keeping such insurances on foot, and do and shall, in case of any such loss or damage by fire happening as aforesaid, apply the money to be recoverable on the policy or policies of insurance in or towards rebuilding or repairing the said chapels respectively to which such loss or damage by fire shall happen, and in repairing or replacing the seats, pews, organs, furniture and other articles therein respectively which shall be so destroyed or damaged, in order to restore the said premises to the same state and condition in which the same were previous to the time of the happening of such fire; and do and shall from time to time, by and out of such rents and profits, apply such sum or sums of money as the said respective Trustees for the time being shall think fit, in cleansing, glazing, painting, embellishing, whitewashing, sustaining and keeping in repair the said chapels, both inside and outside, and the seats, pews, galleries, organs and every part of the interior of the said chapels, and the furniture and other chattels therein, and the gates, rails, walls or other fences belonging to the said chapels respectively, and in making and keeping in repair all such alterations, additions and improvements in or to the said chapels as may at any time hereafter be deemed proper or necessary by the said Trustees or the trustees for the time being; and do and shall in the next place, by and out of the said rents and profits, pay the expenses of purchasing and providing as far as may be requisite, Bibles and Prayer Books for the use of the said chapels, and surplices and vestments for the use of the said ministers or chaplains for the time being, and of providing from time to time such other articles as are or shall be deemed necessary for the due and decent performance of divine service and the administration of the sacrament of the Lord's Supper in the said chapels according to the rites of the Church of *England*, and in paying all such
- 502.

Trustees may
appoint Re-
ceivers of the
Rents;

and a Trea-
surer.

Mode of
applying the
Rents.

other

other costs charges and expenses as shall be incurred by or under the
 direction of the said Trustees respectively for the time being, about
 the execution of the trusts herein declared, not otherwise provided to be
 paid; and do and shall in the next place, by and out of the said rents
 and profits, pay or cause to be paid to the said *John Crofts*, and 5
 to the said *John Percival*, and to the said *Thomas White* respectively,
 or other the curates or ministers for the time being of the said
 chapels respectively, such annual sums by way of salaries or stipends
 for their services, not exceeding in the first instance the sum of Three
 hundred and fifty pounds for each such curate or minister, but with 10
 power for the Trustees for the time being of the said chapels respec-
 tively, either for a limited period or permanently, but with the consent
 of the Lord Bishop of *London* for the time being, to increase such
 annual salaries or stipends to any sum not exceeding Four hundred and
 fifty pounds for any of such curates or ministers, in case the trust funds 15
 or monies shall in the opinion of the said Trustees authorize such in-
 crease to any one or more of the said curates or ministers; such sums
 for the time being so payable to the said curates or ministers respec-
 tively to be paid to them by equal half yearly payments free from all
 deductions, and the first half yearly payment of the said annual sums of 20
 Three hundred and fifty pounds, to be made on the twenty-fifth day
 of December now next ensuing; and do and shall, out of the said
 rents and profits, pay to the receiver so to be appointed of such rents
 as aforesaid, and also to the treasurer so to be appointed as aforesaid,
 and to the clerks, organists, and all other persons whom it shall be 25
 deemed necessary to be employed in and about the said chapels, and
 may be engaged to assist in the celebration of divine service, and to
 such pew-openers as shall or may be employed to attend the said
 chapels, (which clerks, organists and pew-openers shall be appointed
 by the ministers for the time being of the said chapels respectively, and 30
 shall be removable at the pleasure of the said ministers for the time
 being respectively, with the consent of the said Trustees or the trustees
 for the time being,) such yearly salaries or wages as to the said Trustees
 respectively for the time being shall seem proper; and after payment
 of the sums hereinbefore directed to be paid and applied as aforesaid 35
 out of the said rents and profits of the said chapels respectively, and
 after payment of such costs and charges as aforesaid, the said Trustees
 or the trustees for the time being of the said chapels respectively, or their
 treasurer (subject to and under their control and direction) shall from
 time to time lay out and invest the residue of the rents and profits to 40
 arise from letting the said pews or seats within the said three chapels
 respectively, in the purchase of Three per centum consolidated or re-
 duced Bank Annuities, in the names of the said Trustees for the time
 being of the said chapels respectively, and shall receive the interest and
 dividends of such Bank Annuities, and the interest and dividends of the
 Bank Annuities to be purchased as after mentioned; and lay out and invest
 the

the same from time to time in the purchase, in their names, of like Bank Annuities, to the intent that such several Bank Annuities may accumulate.

And it is hereby further Enacted, That the said several Bank
 5 Annuities so to be purchased as last aforesaid shall be held by the said Trustees respectively for the time being of the said chapels, in such shares as shall appear to have resulted from the surplus of the rents and profits arising from the seats, pews, vaults and cellars of such chapels respectively, as a fund, by sale or transfer whereof to raise money from
 10 time to time for defraying the costs and expenses of rebuilding or reinstating the said chapels, and the seats, pews, organs and other furniture and chattels therein, in case the same or any of them shall be wholly destroyed or injured by fire or other accident, or in rebuilding or substantially repairing the said chapels when the same may become dilapi-
 15 dated, and in fitting new pews or seats, and providing other internal chattels, ornaments or conveniences, as may be deemed requisite: Provided nevertheless, That if at any time or times it shall happen that the rents and profits payable in respect of the said seats or pews shall be insufficient to discharge the annual or other payments hereinbefore di-
 20 rected to be made thereout respectively, together with the costs charges and expenses of the Trustees for the time being in execution of the trusts hereinbefore declared, it shall be lawful for the respective Trustees for the time being of the said Bank Annuities, by and out of the dividends, or by sale and transfer of a competent part of the capital thereof that
 25 shall be held in trust for the chapel, the rents and profits of which shall be so insufficient as aforesaid, to levy and raise from time to time such a sum or sums of money as shall enable them to satisfy and discharge the deficiency, and to pay and apply the sum or sums of money so to be levied and raised in payment and satisfaction of such deficiency
 30 accordingly.

Trusts de-
clared of the
Bank An-
nuities to be
purchased.

Provided always, and it is hereby further Enacted, That the regulation
 of all matters and things relating to the said chapels (subject never-
 35 theless to the particular directions and regulations herein contained) shall be under the direction of the said Trustees, or the trustees for the time being of the said chapels respectively, but subject to the appro-
 bation of the Lord Bishop of *London* for the time being; and that every order to be made or act to be done by the said Trustees respectively,
 shall be made or done at some meeting to be holden for the purpose of
 40 executing the trusts herein expressed.

Power of
making gen-
eral regula-
tions vested in
the Trustees.

Provided always, and it is hereby further Enacted, That a meeting of
 the Trustees for the time being of the said chapels respectively shall be
 holden in the Vestry rooms of the said chapels, or in some other con-
 venient place within the said parish, on some convenient day or days of
 502.

Appointing
times of
Meetings of
the Trustees,
and specifying
their Duties
at such
Meetings.

the month of March in every year, for the purpose of inspecting the state and condition of the said chapels and premises, and of directing the repairs thereof (such repairs, if exceeding by estimate the sum of Fifty pounds for each chapel, to be done by contract, in writing under the hands of workmen undertaking the same, and specifying the precise sum for which the same are to be done) and for auditing the accounts and paying the bills of the then preceding year, and generally for settling the affairs and concerns of the said trust premises; and upon every which occasion accounts shall be regularly made up with respect to each of the said three chapels, and the balance struck and entered in the books hereinafter directed to be kept and signed by the Trustees; and further, that a proper book shall be kept at all times in a box or chest in the vestry room of each chapel, for entering all transactions, matters or things done or to be done, and all costs and expenses, payments and disbursements, and other matters and things relating to the business and affairs of the said chapels respectively, to which books the Trustees for the time being of the said chapels respectively shall have free access, at reasonable times of the day, to peruse, examine and copy out the same; and that all vouchers and receipts for payments and disbursements on account of each chapel shall be at all times kept in the said box or chest to be deposited in the vestry room of each chapel, of which box or chest each of the Trustees for the time being shall have a key.

Mode of applying Monies which may come to the hands of the Trustees by Donation or Bequest, where not otherwise directed by the Donor or Testator.

And it is hereby further Enacted, That the said Trustees, or the trustees for the time being of the said chapels respectively, shall apply, or their Treasurer for the time being shall (subject to and under their control and direction) apply all monies which shall or may come to their hands as Trustees, by donation or bequest, and regarding which no other mode of application shall be directed by the donors or testators, upon or for such trusts intents and purposes as are hereinbefore declared concerning the surplus of the aforesaid rents and profits hereinbefore directed to be laid out and invested in the purchase of Bank Annuities as aforesaid, or upon and for such other trusts intents and purposes with reference to the said chapels and the benefit and advantage of the ministers for the time being, and to the comfort and convenience of such persons as shall resort thereto, as the said Trustees for the time being of the said chapels respectively, with the consent of the Lord Bishop of *London* for the time being, shall think proper.

CLAUSE (D.)
Power for the Commissioners of the Treasury to appoint new Trustees in the place of the first Commissioner of His Majesty's Woods, &c.

Provided always, and it is hereby further Enacted, That if at any time hereafter the Board, commonly called "The Commissioners of His Majesty's Woods Forests and Land Revenues," shall be discontinued, it shall be lawful for the Lord High Treasurer or the Commissioners of the Treasury for the time being, by any writing under his or their hand or hands, to nominate and appoint some person to act as Trustee

Trustee with the said Rectors for the time being respectively; and also upon the death, removal or declining to act of the person to be so nominated and appointed, or of any other person to be thereafter nominated and appointed in pursuance of this present power, to nominate and appoint from time to time some other person to act as Trustee with the said Rectors for the time being respectively; and that upon every such nomination and appointment being so made as aforesaid, the said two Chapels called *Portland* Chapel and *Oxford* Chapel, with their respective appurtenances, shall become vested in the Rector for the time being of the said District Rectory called *All Souls*, and the person so to be appointed to act as Trustee with him as aforesaid, as a body corporate; and that the said chapel called *Welbeck* Chapel, with the appurtenances, shall become vested in the Rector for the time being of the said parish of *Saint Mary-le-bone*, and the person so to be appointed to act as Trustee with him as aforesaid, as a body corporate; and that from and after any such appointment shall be made as aforesaid, the said chapels called *Portland* Chapel and *Oxford* Chapel, with their respective appurtenances, shall be held by the Rector for the time being of the said district rectory called *All Souls*, and the person to be appointed to act as Trustee with him, upon such trusts as are hereinbefore declared concerning the same, and with the same powers and authorities as are hereinbefore given to the said *William* Viscount *Lowther* and *George Chandler*, or such of them as shall be then subsisting or capable of taking effect; and that from and after any such appointment shall be so made as aforesaid, the said chapel called *Welbeck* Chapel, with the appurtenances, shall be held by the Rector for the time being of the said parish of *Saint Mary-le-bone*, and the person to be appointed to act as Trustee with him, upon such trusts as are hereinbefore declared concerning the same, and with the same powers and authorities as are hereinbefore given to the said *William* Viscount *Lowther* and *John Hume Spry*, or such of them as shall be then subsisting or capable of taking effect.

in the event of the Board of the Commissioners of Woods, &c. being discontinued.

Provided always, and it is hereby further Enacted, That it shall be lawful to and for the Trustees for the time being of the said chapels respectively, by and out of the said trust monies and premises to deduct and retain to themselves respectively all such costs and expenses as shall be incurred by them or any of them in the execution of any of the trusts aforesaid, and that they or any of them shall not be responsible for any such treasurer or receiver as aforesaid, and that the said Trustees or any of them shall not be chargeable further than with or for their own respective receipts, acts or defaults, and that they or any of them shall not be accountable for any loss in depositing the said trust monies or any part thereof with any banker for safe custody, nor for any other involuntary loss or misfortune in any of the said trust transactions; and that the receipts of the Trustees for the time being, or of any one of them,

The Trustees to be indemnified against Costs, &c.

them, or of their Treasurer, for all monies to be paid to them or him, shall be effectual discharges to the person or persons paying the same.

Proviso securing to the Rector of St. Mary-le-bone Surplice Fees, &c. and

Saving the Rights of the district Minister in the parish of Christchurch, established by the 1 & 2 & 6 Geo. IV. and of the Bishop of London.

Statement, that His Majesty is seised in fee in right of the Crown of an estate called Sunk Island, in the River Humber, upon which the Lessees have erected a Chapel.

Benefit to result from constituting Sunk Island a Parish, and for setting apart the Chapel as a Church for Divine Worship, and providing a Stipend for the Minister.

Sunk Island constituted a Parish.

The Chapel to be called the Parish Church of Sunk Island.

Provided always, and it is hereby further Enacted, That nothing hereinbefore contained shall authorize the Ministers for the time being of the said chapels respectively to receive or claim any surplice or other fees or emoluments, of right or by custom due or payable to the rector for the time being of the said parish of *Saint Mary-le-bone*, but that the rector for the time being shall at all time hereafter continue entitled to such surplice fees or emoluments, and to receive the customary fees payable in respect of any license or authority given by him for erecting within or outside the said chapels any monuments, to which fees he may be entitled as rector of the said parish; and that the said rector of the said parish for the time being shall be entitled to the privilege of preaching in the said chapels as often as he shall think proper; and further, that nothing hereinbefore contained shall prejudice or affect any of the rights, privileges or benefits which the minister for the time being of the said district Church called *Christchurch*, established under the provisions of the said Acts passed in the first and second year and in the sixth year of the reign of His present Majesty, is or may be entitled to use, exercise and enjoy, so far as relates to the said two Chapels called *Portland* Chapel and *Oxford* Chapel, so situate within the district of the said district Church; and further, that nothing hereinbefore contained shall extend to invalidate or prejudice the jurisdiction or any of the rights or powers of the Lord Bishop of *London* for the time being, in over or relating to the said Chapels.

AND whereas His Majesty is seised to Him, His heirs and successors, in right of His Crown, of a certain estate called *Sunk* Island, situate in the River *Humber*, on part of which estate the lessees of the Crown and their tenants have at their own expense erected a Chapel, called The *Sunk* Island Chapel, and have appropriated and inclosed a piece of land as a Burial-ground thereto: AND whereas it would be greatly for the benefit and advantage of the inhabitants for the time being of *Sunk* Island, that the said island should be constituted a Parish, and that the said Chapel should be consecrated as a Church, and be set apart as a place of divine worship; and that an annual stipend should be provided for the officiating minister for the time being of the said Parish Church, and that other provisions should be made concerning the same; BE it therefore further Enacted, That the said island, called *Sunk* Island, shall from and after the passing of this Act be formed into and be made and become a parish, to be called "the Parish of *Sunk* Island, in the county of *York*."

And be it further Enacted, That the said Chapel so erected and built as last aforesaid shall from and after the passing of this Act be called

called "The Parish Church of *Sunk* Island, in the province of *York* and archdeaconry of the East Riding of the county of *York*," and that the said Church shall be kept in repair, and the pulpit, seats, pews, galleries, bells and other furniture and chattels in and belonging to the said church shall be repaired and renewed from time to time, and the church-yard or burial-ground kept in repair and well fenced, at the costs and charges of the inhabitants of the said parish; and that the amount of all such costs and charges as aforesaid shall be paid by the inhabitants of the said parish for the time being, according to an annual assessment to be made upon them by the churchwardens for the time being, and shall be recovered by such and the same means as any other parochial charge is by law authorized to be recovered.

And be it further Enacted, That the said Church shall be endowed and the same is hereby endowed with all and singular the privileges, rights, profits and advantags thereunto belonging or appertaining, according to and for the purposes of this Act, and shall be set apart and dedicated to and for the service of Almighty God as and for a place of divine worship according to the rites and ceremonies of the United Church of *England* and *Ireland*, for ever (the same being first duly consecrated according to the usage of the Church of *England*) and shall and is hereby declared to be a separate and distinct perpetual cure and benefice under the name of "The Church of *Sunk* Island;" and that the present and every future minister of the said church shall be deemed and taken by virtue of this Act to be incorporated and made a body politic and corporate by the name of "The officiating Minister of the Church of *Sunk* Island," and shall have perpetual succession and be enabled to sue by that name in all courts of this realm; and the said Church and Church-yard or Burial-ground belonging thereto shall be vested in the said minister and his successors for the time being for ever; and the said Church and the minister thereof, and also the person or persons who shall act as or in the nature of a churchwarden thereof for the time being, shall be under and subject to the order and jurisdiction of the said Lord Archbishop of *York* and the Archdeacon of the East Riding of the county of *York* and their successors for the time being, and shall be visited as other churches and chapels within the said province of *York* and archdeaconry are visited.

The Church
endowed as
a place of
Worship.

The Minister
to be incor-
porated.

And be it further Enacted, That the Advowson, right of patronage, free disposition and nomination of, in, and to the said Church, shall from and immediately after the passing of this Act appertain to and the same are hereby vested in The KING's most EXCELLENT MAJESTY, His heirs and successors, for ever freed and absolutely acquitted and released from and against all estates, interests claims and demands whatsoever of any person or persons whomsoever, except as ordinary of the said church, and such other ecclesiastical jurisdiction as may be necessary.

The Advowson
of the Church
vested in His
Majesty.

After Consecration, Marriages to be celebrated and solemnized.

And be it further Enacted, That from and after the consecration of the said Church, banns of matrimony may be published and marriages celebrated therein, in such manner and under such restrictions and regulations as the same can or may by law be published or celebrated in parish churches or public chapels where banns and marriages are published and celebrated ; and that every such marriage shall be valid to all intents and purposes whatsoever ; provided that all such banns and marriages shall be published and celebrated according to the laws and canons in force within this realm in that behalf. 5

Registers to be provided.

And be it further Enacted, That all marriages, christenings and burials had and solemnized within the said church, shall be registered in public registers to be provided and kept for that purpose, in manner and for the purposes as by law directed. 10

Commissioners of Woods Forests and Land Revenues to purchase 8,333*l.* 6*s.* 8*d.* in the 3 per Cent Consolidated Bank Annuities, in the joint names of the Archbishop of York and William Viscount Lowther, as Trustees, and the Dividends to be paid to the Minister of the Church as his Salary.

And be it further Enacted, That as soon as conveniently may be after the passing of this Act, the Commissioners of His Majesty's Woods Forests and Land Revenues shall, out of the produce of the land revenues of the Crown, purchase the capital sum of Eight thousand three hundred thirty-three pounds six shillings and eight-pence in the Three pounds per centum consolidated Bank Annuities, in the joint names of The honourable *Edward* Lord Archbishop of *York*, or the Lord Archbishop of *York* for the time being, and of the said *William* Viscount *Lowther*, First Commissioner of His Majesty's Woods Forests and Land Revenues, or the First Commissioner for the time being thereof ; and that the Trustees for the time being of the said last mentioned capital sum shall pay the dividends and interest thereof to the officiating minister for the time being of the said last mentioned church, or authorize and empower him to receive the same, as and when the same shall become due and payable, as and for a stipend or salary for the performance of his sacred duties. 15 20 25

Appointment of new Trustees of the Stock.

Provided always, and be it further Enacted, That on the death, cession or translation of the said *Edward* Lord Archbishop of *York*, or of any future Lord Archbishop of *York*, or on the death or cesser to act of the said *William* Viscount *Lowther* as such First Commissioner as aforesaid, or of any future First Commissioner of His Majesty's Woods Forests and Land Revenues, the said last-mentioned capital sum of Eight thousand three hundred thirty-three pounds six shillings and eight-pence shall be forthwith and from time to time transferred so as to become vested in the joint names of the Lord Archbishop of *York* and the First Commissioner of His Majesty's Woods Forests and Land Revenues for the time being, upon the trusts hereinbefore declared concerning the same : Provided nevertheless, That if at any time hereafter the Board commonly called " The Commissioners of His Majesty's Woods Forests and Land Revenues," shall be discontinued, it 30 35 40

it shall be lawful for the Lord High Treasurer or the Commissioners of the Treasury for the time being, by any writing under his or their hand or hands, to nominate and appoint from time to time some person to act as trustee with the Lord Archbishop of *York* for the time being, and also
5 upon the death, removal or declining to act of the person so to be appointed, or of any other person to be thereafter nominated and appointed in pursuance of this present power, to nominate and appoint from time to time some other person to act as trustee with the Lord Archbishop of *York* for the time being, and that upon every nomination and appointment
10 being so made as aforesaid, the said last-mentioned capital sum of Eight thousand three hundred thirty-three pounds six shillings and eightpence shall be forthwith transferred so as to become vested in the joint names of the said Lord Archbishop for the time being and the person so to be nominated and appointed as aforesaid, upon the trusts herein-
15 before declared concerning the same; and it is hereby declared, that the costs and charges attending the making every such transfer as last aforesaid shall be paid out of the dividends and interest of the said last-mentioned stock.

And be it further Enacted, That this Act shall be deemed and taken Public Act. to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices and others, without being specially pleaded.

11 GEO. IV.—Sess. 1830.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

For endowing the Parish Church of *Newborough*, in the County of *Northampton*, and three Chapels, called *Portland* Chapel, *Oxford* Chapel, and *Welleck* Chapel, situate in the Parish of *Saint Mary-le-bone*, in the County of *Middlesex*, and also a Chapel erected on *Sunk* Island, in the *River Humber*.

*Ordered, by The House of Commons, to be Printed,
7 June 1830.*

7 April 1830.

337



(Ireland.)

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To amend the Laws respecting the Leasing Powers of Bishops and Ecclesiastical Corporations in *Ireland*.

[N. B.—*The Clause marked (A.) was added by the Committee.*]

WH E R E A S Archbishops, Bishops, Deans, Deans and Chapters, Archdeacons, Prebendaries, and other Dignitaries Ecclesiastical, and likewise Masters and Governors and Fellows of Colleges and Hospitals in *Ireland* are, according to the Laws now in force, able to grant Leases binding on their Successors for terms of twenty-one years; but such Archbishops, Bishops, and other Persons and Corporations as aforesaid cannot, except in certain cases, grant Leases binding on their Successors for terms exceeding twenty-one years : Preamble.

5
10 And whereas the Rents reserved on Leases so granted are greatly less than the true annual value of the lands and hereditaments demised, by reason whereof the Lessees or other persons obtaining such Leases are frequently in the habit of paying Fines or Premiums for renewals of the same ; and such Fines or Premiums often constitute a material part of the revenues of such Archbishops, Bishops, or other Persons or Corporations :

And whereas such practice is found to be productive of inconvenience, as well by rendering the amount of such revenues variable and uncertain, as also by checking the application of capital to the improvement of such lands and hereditaments; and it is expedient that the powers of such Archbishops, Bishops, and other Persons or Corporations as aforesaid should be extended as

261.

A

hereinafter

Bishops, &c.
may set aside
subsisting
Leases, and
grant new
ones.

hereinafter mentioned; ~~BE~~ it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the passing of this Act, it shall be lawful for any such Archbishop, Bishop, and other such Person or Corporation in *Ireland*, having lands and hereditaments demised or demisable as aforesaid, to concur with the tenant or tenants, or any other person or persons entitled to such lands and hereditaments, in putting an end to all subsisting Leases thereof, and to grant unto such tenant or tenants, person or persons, and his and their executors administrators and assigns, a new Lease of such lands and hereditaments for any term of years certain, not exceeding Forty-one years in possession, to commence from the making of such Lease, reserving on every such Lease an annual rent to be incident to the immediate reversion of the lands and hereditaments demised, the amount whereof shall be ascertained in manner hereinafter mentioned; (that is say) Such Archbishop, Bishop, or other Person or Corporation shall, by writing under his hand and seal, name one competent and indifferent person, and the intended tenant of the land and hereditaments to be demised shall, by writing under his hand and seal, name another competent and indifferent person, and the Lord Lieutenant, the Lords Justices or Lord Deputy for the time being, shall, under his or their hand or hands, name another competent and indifferent person, such three persons so to be named as aforesaid to be Valuers, to value the land and hereditaments so to be demised as hereinbefore is mentioned; and such three Valuers shall, immediately after their nomination as aforesaid, being first duly sworn in manner hereinafter mentioned, proceed to ascertain, and shall, by writing under their hands and seals, (or in case they should not agree, then and in such case the majority of them shall, by writing under their hands and seals,) certify and declare in the first place what would be the full annual value of such land and hereditaments to be demised, at a rack rent, and secondly, the amount of rent, fines and fees annually paid out of or in respect of the said lands and hereditaments, upon an average of twenty-one years next immediately preceding such valuation; and the annual amount so certified as last aforesaid shall be the annual Rent to be reserved on the Lease so to be granted as aforesaid, for any term not exceeding Forty-one years.

Valuers to be
appointed to
fix the Annual
Rent.

After Valuers
appointed
under hand
and seal of
Parties, nei-
ther party to
retract with-
out consent of
the other.

And be it further Enacted, That from and immediately after the nomination of Valuers in manner aforesaid, it shall not be lawful for either party to object to the appointment of such Valuers, nor to any valuation or proceedings of the said Valuers, but all such persons shall and they are hereby required to conform to such valuation,

valuation, and to proceed without delay in the execution of the necessary leases according to the true intent and meaning of this Act.

And be it further Enacted, That such Valuers as aforesaid shall
 5 further certify and declare what portion of the rent so to be reserved as last aforesaid would be payable in respect of the rent which had been then previously reserved as aforesaid, and what
 10 portion of the rent so to be reserved as aforesaid would be payable in respect of the said average amount of fines and fees theretofore annually paid in respect of the said land and hereditaments; and
 15 such last-mentioned portion of the said rent to be reserved as aforesaid shall be deemed taken and decreed in all courts of law and equity to be in lieu of such fines and fees as aforesaid, and to be subject and liable to all restrictions, regulations, conditions and incidents to which such fines and fees are now subject and liable under
 any Act or Acts now in force, and under any decision of any courts of law or equity, or any contract or agreement, or any bye-law, statute or usage of any such corporation.

Valuers to certify what portion of Rent is to be deemed in lieu of Fines, &c.

AND whereas it may happen that the tenant of any such Arch-
 20 bishop, Bishop, or other Person or Corporation, being desirous of concurring with such Archbishop, Bishop, or other Person or Corporation, in putting an end to his subsisting Lease, and obtaining a new Lease under the provisions of this Act, may at the time of making such valuation as aforesaid have suffered
 25 one or more years of his Lease to expire, and shall not have paid the customary fines for renewal of the same; BE it therefore Enacted, That such tenant shall, previous to such valuation, pay or cause to be paid such amount of fine as would have been required by such
 30 Archbishop, Bishop, or other Person or Corporation, for the renewal of such Lease for the full period of twenty-one years; which amount of fine, but deducting therefrom what shall have been included therein by way of interest for delay of payment, shall be taken into the account of the average amount of the said fines and fees as aforesaid.

Fines due at the time of Valuation to be taken into account.

35 Provided always, and be it further Enacted, That for the purpose of taking the said average as aforesaid, no sum or sums of money shall be included which shall have been paid during the said period of twenty-one years in liquidation of fines or fees due before such period of twenty-one years, nor any interest which shall have been paid or payable thereon.

In taking Averages, sums paid in liquidation of Fines not to be included.

And be it further Enacted, That at such period as such Arch-
 bishop, Bishop, or other Person or Corporation shall appoint, within
 Five years before the expiration of any Lease to be granted under
 261. the

Before the expiration of any Lease under this Act, the An-

nual Value to be ascertained in the manner hereinbefore directed.

the authority of this Act, and so from time to time as often as the case may require, the then full annual value of the said land and hereditaments shall again be ascertained by Three indifferent competent persons, to be respectively appointed in the manner hereinbefore directed; and such Archbishop, Bishop, or other Person or Corporation, who shall have granted such Lease as aforesaid, or his or their successor or successors, shall grant a new Lease of the said land and hereditaments to the former lessee, his executors administrators or assigns, for a further term not exceeding Forty-one years, and so from time to time as often as the case may require, reserving by way of rent such an annual sum as shall bear the same proportion to the then ascertained full annual value of the said land which the former rent shall have borne to the former ascertained annual value of the same.

Not to prohibit Clauses for a due cultivation of Land, &c.

Provided always, and be it further Enacted, That nothing herein contained shall extend or be construed to extend to prohibit the insertion in the Lease or Leases to be granted under this Act, of any clause or clauses, proviso or provisos, condition or conditions, for a due cultivation and maintenance of the land and hereditaments so to be demised and let; and such Archbishop, Bishop, or other Person or Corporation, and such tenant, or other person or persons taking such lease as aforesaid, shall be at liberty to require and to enter into all such covenants, agreements and conditions respecting the said lands and hereditaments so to be demised, and the due cultivation and maintenance of the same, or the payment of the rent reserved in respect of the same, or granting assignments or under-leases of the same, or the giving up or surrendering the same in proper condition and repair, as to the said Archbishop or Bishop, or other Person or Corporation, tenant or tenants, or other person or persons as aforesaid respectively, shall appear just and reasonable, in like manner as if this Act had not been made.

If Tenant forfeits his Lease, it may be granted to any other person.

And be it further Enacted, That if any such tenant shall by any means have committed a forfeiture of his Lease, it shall and may be lawful for such Archbishop, Bishop, or other Person or Corporation, to grant a new Lease of such lands and hereditaments to any other tenant, upon the terms and for the period prescribed by this Act.

Appointment of Valuers to be enrolled in the Registrar Office for inspection.

And be it further Enacted, That every appointment of such valuers, and every certificate to be made by the said valuers, shall be enrolled and preserved in the office of registrar of the Bishop in whose diocese the lands are situate, and of the clerk of the peace for the county in which they are situate, and shall at all times be open to the inspection of any person on payment or tender of One shilling; and the said clerk of the peace or registrar shall, at the request of any person,

person, furnish a copy of any such appointment or certificate, and certify the same to be a true copy thereof, on receiving for every such copy the sum of One shilling, and no more; and every such copy, so certified as aforesaid, may be given in evidence in any
 5 court of law or equity, and the same shall be received as evidence of such appointment or certificate.

Provided always, and it is hereby further Enacted, That the said registrar or clerk of the peace shall have full power and authority to administer the Oath set forth in the Schedule hereunto annexed,
 10 to the said valuers, previously to their entering upon such valuations as aforesaid: And it is hereby enacted, That for administering such oath as aforesaid, the said registrar or clerk of the peace shall receive the sum of One shilling, and no more.

Registrar to
administer
Oath to
Valuers.

Fee for the
same.

And be it further Enacted, That nothing herein contained shall
 15 prevent such Archbishop or Bishop, or other Person or Corporation, from granting such Lease or Leases as they were, previously to the passing of this Act, by law authorized to grant, or from taking such fine or fines, fees or fee as have been hitherto paid or payable in respect of the lands and hereditaments so demisable as
 20 aforesaid: But it is hereby further Enacted, That it shall not be lawful for any such Archbishop, Bishop, or other Person or Corporation, to receive or contract for any fine, premium, foregift or other advantage, except the annual rent to be reserved as aforesaid, as
 25 or by way of consideration for the granting of any such Lease as is hereby authorized to be made; and every such Lease in respect of which any such fine, premium or advantage shall have been received given or contracted for, shall be absolutely null and void against the successor of any such Archbishop, Bishop, or other such
 Person or Corporation granting the same.

Act not to
prevent per-
sons granting
Leases, the
same as be-
fore the
passing of this
Act.

Not to re-
ceive or con-
tract for any
Fine, Pre-
mium, &c.

30 AND whereas it has been customary for the Lessees of such Archbishops, Bishops, and other such Persons and Corporations in *Ireland*, to grant under-leases of the lands and hereditaments demised to them, to other persons: AND whereas it is expedient that the existing rights and obligations of such under lessees should not
 35 be affected by this Act; BE it therefore Enacted, That nothing in this Act contained shall be construed in any way to defeat or alter any right or interest to which such under lessee shall or may be entitled, nor to cancel or annul any obligation or covenant to which such under lessee is or may be liable under and by virtue of his
 40 contract or agreement or the laws now in force.

Act not to
affect existing
Rights of Un-
der Lessees.

AND whereas such Under-leases as aforesaid frequently depend upon the renewal by fine of the original Lease granted by the Arch-
 bishop, Bishop, or other such Person or Corporation as aforesaid;
 261. B BE Payment of
rent (reserved
under this
Act) by
Lessees, to be
equivalent to
a renewal by
Fine.

BE it therefore Declared and Enacted, That for all purposes, and to all intents affecting such under-leases, the payment by the lessee of such Archbishop, Bishop, or other Person or Corporation as aforesaid, of that part of the rent reserved under the provisions of this Act, which the valuers hereinbefore directed to be appointed shall have certified and declared to be in lieu of such fines and fees, shall be deemed and taken in all courts of law and equity to be equivalent to a renewal by fine of such original Lease. 5

Under Lessees to have the same privileges, &c. upon payment of the proportion of rent to be fixed as aforesaid.

And be it further Declared and Enacted, That all and every the rights, privileges, immunities, benefits and interests which such Under lessee may previously to the passing of this Act be entitled to hold and enjoy in virtue of his payment of a proportion of any fines or fees hitherto paid by the lessee of any such Archbishop, Bishop, or other Person or Corporation, such under lessee shall in like manner hold and enjoy all such rights, privileges, immunities, benefits and interests, upon payment of the same proportion of that part of the rent to be reserved in the Lease to be granted under this Act, which the valuers hereinbefore directed to be appointed shall have certified and declared to be in lieu of such fines or fees. 10 15 20

Under Lessee to be liable to the same obligations, restrictions, &c. as before.

And be it further Declared and Enacted, That all and every the obligations, restrictions, covenants and conditions to which such Under Lessee is or may become subject in virtue of any fines or fees paid by the lessee of any such Archbishop, Bishop, or other Person or Corporation as aforesaid, shall be deemed and taken in all courts of law or equity to be equally binding upon such under lessee in virtue of the payment by the lessee of such Archbishop, Bishop, or other Person or Corporation as aforesaid, of that part of the rent to be reserved in the Lease to be granted under this Act, which the valuers hereinbefore directed to be appointed shall have certified and declared to be in lieu of such fines and fees. 25 30

Not to empower persons to grant Leases of Lands other than those they now can for Twenty-one years.

Provided always, and be it further Enacted, That nothing in this Act contained shall extend to permit any such Archbishop, Bishop, or other Person or Corporation, to grant a Lease of any lands or hereditaments other than those which by the laws now in force they may be empowered and entitled to grant for the term of Twenty-one years. 35

CLAUSE (A.) Act not to extend to the College of the Holy Trinity near Dublin.

Provided also, and be it further Enacted, That nothing in this Act contained shall extend or be construed to extend to the College of the Holy and Undivided Trinity near *Dublin*, or the lands or revenues thereof.

Schedule

Schedule.

I DO swear, That I will faithfully and honestly execute the trust reposed in me, as one of the Valuers of the lands and hereditaments of _____ under and by virtue of the Act of Parliament passed in the _____ year of the reign of His present Majesty King GEORGE the Fourth, intituled, “ An “ Act

So help me GOD.

11 GEO. IV.—Sess. 1830.

(Ireland.)

A

B I L L

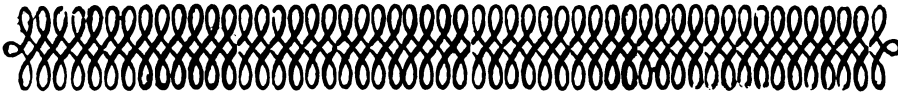
[AS AMENDED BY THE COMMITTEE]

To amend the Laws respecting the Leasing
Powers of Bishops and Ecclesiastical
Corporations in *Ireland*.

Ordered, by The House of Commons, to be Printed,
7 April 1830.

8 February 1830.

359



A

B I L L

To enable Rectors, Vicars, and other Incumbents of Ecclesiastical Benefices and Livings in England and Wales, to exchange their Tithes for Corn Rents, by Agreement with the Owners of Lands.

Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.

- W**H ~~HEREAS~~ in many places in England and Wales much inconvenience has been found to result from the collecting of Tithes, and many disputes have arisen in consequence between the Rectors, Vicars and other Incumbents of Ecclesiastical Benefices and Livings, and their Parishioners and other persons liable to pay Tithes to them; And, for the remedying and prevention thereof, it is expedient to give due facility to such Rectors, Vicars and Incumbents, and the Owners of Lands, to make some certain and adequate Compensation for and in lieu of Tithes; ~~BE it therefore Enacted~~, by
- 5 The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *passing of this Act*, it shall and may be lawful for all Rectors, Vicars and other Incumbents of Ecclesiastical
- 10 Benefices or Livings in England and Wales, by agreement with the several Owners of messuages, farms, lands or tenements within their respective parishes or other limits of their respective Benefices or Livings, to exchange for Corn Rents all the Tithes of what nature or kind soever, and all the compositions real, moduses and prescriptive payments in lieu of Tithes, dues, oblations and obventions, which of right belong to or have been received by such Rectors, Vicars and
10. A other
- Preamble :
- Rectors, &c. may by agreement commute for their Tithes,

other Incumbents or their predecessors, except as is hereinafter excepted, in such manner and subject to such restrictions as are hereinafter set forth.

Parties with-
ing to com-
mute the
Tithes of a
Parish, to pe-
tition the
Archbishop
or Bishop.

And be it Enacted, That whenever any Patron or Patrons, Rector, 5
Vicar or other Incumbent or Incumbents of any Ecclesiastical Benefice
or Living in England or Wales, and the Owners of messuages, farms,
lands and tenements, within the parish or other limits of such Benefice
or Living, shall desire to exchange for Corn rents the Tithes, compo-
sitions real, moduses and prescriptive payments, dues, oblations and
obventions, payable to such Rector, Vicar, Incumbent or Incumbents, 10
for such annual sums to be raised and fixed in such mode as hereinafter
set forth, a Petition shall be presented to the Archbishop or Bishop
within whose Diocese the Benefice or Living is situate, setting forth the
circumstances of the case and the object of the petitioners, and praying
such Archbishop or Bishop to permit them to proceed to such exchange 15
under the powers of this Act; and such petition shall be signed or
sealed by the Patron or Patrons, the Rector, Vicar or other Incumbent
or Incumbents, and two third-parts at least, in point of value, of the
owners of messuages, farms, lands and tenements within the parish or
other limits of the Benefice or Living, the Tithes and other payments 20
whereof are sought to be exchanged; and a copy of such petition, with
the signatures and seals thereto, shall be affixed at least *Three*
weeks before the same shall be presented, on the principal door
of the church and chapels, or either of them, be any such, but
if not, then in some public and conspicuous place within the parish 25
or other limits of the Benefice or Living, and be twice inserted
in some country newspaper generally circulated within the vicinage
of the parish or other limits of the Benefice or Living, if there
be such, but if not, then in the London Gazette, within the
Three weeks next preceding the presenting of the same; and in 30
case the said Archbishop or Bishop, upon the consideration of such
petition, or of any further particulars or information which he shall think
fit and direct to be laid before him, which further particulars and infor-
mation such Patron or Patrons, Incumbent or Incumbents, and Owners
of messuages, farms, lands and tenements are hereby required, so far 35
as they are able, to supply, shall be satisfied that there is reasonable
ground for expecting the benefit represented to be derivable from such
exchange, such Archbishop or Bishop shall signify in writing, under
his hand, his consent to further proceedings being taken in order to
effect such exchange, and thereupon shall issue a Commission under his 40
hand and episcopal seal, directed to *Six* or more fit and competent per-
sons, not being any way directly or indirectly interested in the Tithes and
other payments intended to be exchanged, of whom one at least shall be
a beneficed clergyman, one at least a practising barrister at law of *Three*
years or more standing, and one at least a magistrate not in holy orders,
acting

The Arch-
bishop or
Bishop to
issue a Com-
mission.

acting for the county, riding, division or place within the parish or other limits of the Benefice or Living, the Tithes and other payments whereof are intended to be exchanged, or the greater part thereof, is or are situate, authorizing and directing the said Commissioners or any three or more
 5 of them, but of whom one shall be such beneficed clergyman as aforesaid, one such barrister as aforesaid, and one such acting magistrate as aforesaid, to make such examinations and inquiries, and to carry the provisions of this Act into effect, in such manner and form as are hereinafter directed : Provided always, That all and every the Commissioners
 10 and Commissioner named in every such Commission shall be designated therein by the character of beneficed clergyman, barrister, or magistrate, in which it is intended they respectively shall act in the execution of such Commission ; and no Commissioners or Commissioner named in any such Commission shall be capable of acting in the execution of the
 15 same in any other character than that by which they respectively or he shall be designated therein.

And be it further Enacted, That no person shall be capable of acting as such Commissioner until he shall have taken and subscribed an Oath in the words or to the effect following ; that is to say,

Commissioners to be sworn.

20 “ I, A. B., do swear, That I will faithfully, impartially and
 “ honestly, to the best of my skill and ability, execute and
 “ perform the powers and authorities vested and reposed in
 “ me as a Commissioner by virtue of a Commission [describe
 “ the Commission] according to equity and good conscience,
 25 “ without fear, favour or affection, prejudice or malice to any
 “ person or persons whomsoever.

Oath of Commissioners.

“ So help me GOD.”

Which Oath any Justice of the peace for the county, riding, division or place within which the parish or other limits of the Benefice or Living,
 30 the Tithes and other payments whereof are intended to be exchanged, or the greater part thereof, is or are situate, is hereby empowered to administer ; and a memorandum of the time and place of taking such oath by each such Commissioner under his hand, and countersigned by the Justice of the peace so administering it, shall be annexed to and
 35 returned with the other proceedings under such Commission.

And be it further Enacted, That in case of any one or more of the Commissioners named in such first Commission, or of any future Commissioner or Commissioners to be appointed as hereinafter is mentioned, dying, or neglecting or refusing to act, or becoming incapable of acting, or desiring to resign or be discharged from acting in the execution of the powers given to or vested in him or them by such Commission, then and in every such case, and from time to time as occasion may require, it shall and may be lawful for the Archbishop or

Appointment of new Commissioners.

Bishop of the diocese for the time being, by writing under his hand and episcopal seal, to appoint such other fit and proper person or persons, not being interested in the Tithes and other payments intended to be exchanged, to be a Commissioner or Commissioners in the room of the Commissioner or Commissioners so dying, neglecting or refusing to act, or becoming incapable of acting, or desiring to resign, or be discharged from acting as aforesaid : Provided always, That there be kept up in such Commission at the least one such beneficed clergyman as aforesaid, one such barrister as aforesaid, and one such magistrate as aforesaid ; and every such new Commissioner so to be appointed, shall be designated by the character in which it is intended he shall act, and shall be incapable of acting in the execution of the Commission in any other character, and shall take and subscribe the oath hereinbefore prescribed in that behalf in manner aforesaid, and shall have the like powers and authorities in all respects as if he had been originally named and appointed a Commissioner under the Commission ; and every such appointment of a new Commissioner or Commissioners, with a memorandum of the time and place of his or their taking such oath under his or their hand or hands, and countersigned as aforesaid, shall be annexed to and returned with the other proceedings under such Commission.

Neglect deemed a Refusal.

And be it further Enacted, That in case any Commissioner or Commissioners so to be appointed as aforesaid shall neglect to act in the execution of such Commission for the space of *Thirty-one* days after notice in writing shall have been given to him or them, or left at his or their last or usual place of abode, signed by the Incumbent or any two or more Owners of messuages, farms, lands or tenements in the parish or other limits of the Benefice or Living, the Tithes and other payments whereof it is intended to exchange, then and in every such case such neglect shall be deemed and taken to be an absolute refusal on the part of such Commissioner or Commissioners to act within the intent and meaning of this Act.

Commissioners may appoint a Clerk.

And be it further Enacted, That it shall be lawful for the said Commissioners to appoint a Clerk to assist them in the execution of their duty, and from time to time to remove such clerk and appoint another in his stead ; and out of the money to be raised and provided for the purpose of effecting such exchange, to pay to such clerk such salary or allowance for his trouble and expenses as to the said Commissioners shall appear just and reasonable.

No Proceedings of the Commissioners to be valid, unless done at a Meeting, and unless

Provided always, and be it further Enacted and Declared, That no proceedings of the said Commissioners or any of them, in the execution of the powers given or vested in them under such Commission, shall be valid, unless done at a meeting held in pursuance of notice given by the clerk

- clerk to such Commissioners, or by the Chairman of the last meeting of such Commissioners, in case they have no clerk, or by any *Two* of such Commissioners, by letter addressed to each Commissioner or to each other Commissioner, and left at or addressed and sent to him by
- 5 the post at his last or usual place of abode, at least *Seven* days before such meeting (meetings by adjournment only excepted,) which notice shall specify the time and place of such meeting, which shall be within the parish or other limits of the Benefice or Living, the Tithes and other payments whereof are intended to be exchanged,
- 10 or within *Seven* miles of some part thereof, nor unless Three Commissioners at the least be present at such meeting, of whom one shall be such beneficed clergyman as aforesaid, one such barrister as aforesaid, and one such magistrate as aforesaid; but all orders, acts, matters and things made or done by such Commissioners at
- 15 such meeting, may and shall be done by the major part of the Commissioners assembled and present at the making or doing of any such orders, acts, matters and things; and at every such meeting, one of the said Commissioners present shall be appointed Chairman, and such Chairman in case of equality of votes upon any point shall
- 20 have the decisive or casting vote, and that notwithstanding he shall have previously voted on the question, which he shall be at liberty to do; and in case of an equality of votes for the Chairman at any meeting, it shall be determined by lot which of the Commissioners for whom there is an equal number of votes shall be Chairman; and all proceedings,
- 25 orders or determinations of the Commissioners at such meetings shall be entered in a book or books provided for that purpose, and be signed by the Commissioners present or the major part of them, or by the Chairman of such meetings, and being so signed, shall be deemed and taken to be originals; and all such books shall be deposited with and be
- 30 kept by the clerk to the said Commissioners, or such other person as they shall appoint, until the return of the Commission, and shall and may be read in evidence in all cases of appeal, suits, actions and other proceedings whatsoever, and shall be accessible to all persons interested on all reasonable occasions; and it shall and may be lawful to and for any person
- 35 or persons interested in the exchange intended to be made, or his or their agent or agents duly authorized in writing, from time to time and at all seasonable times to inspect the said book or books, and to make or take any extract or extracts therefrom, or a copy of or extract from any map or maps, plan or plans, survey or surveys, valuation or valuations,
- 40 or papers or writings relating thereto which may be delivered to the said Commissioners, as hereinafter mentioned, at will and at pleasure.

Three Commissioners at least be present.

Chairman to be appointed at each Meeting.

Proceedings to be entered in a Book.

And be it further Enacted, That so soon as the Archbishop or Bishop shall have signified his consent to proceedings being taken in order to effect an exchange of Tithes for a Corn Rent, and shall have issued such Commission as aforesaid, it shall and may be lawful to and

Appointment of a Tithe Valuer;

10.

B

for

by the Parish; for the Owners of messuages, farms, lands and tenements within the parish or the other limits of the Benefice or Living, the Tithes and other payments whereof are intended to be exchanged, who shall attend by themselves, or their agents or proxies duly authorized in writing, at a meeting to be called by order of the said Commissioners for that purpose, to be held at some convenient place within the parish or other limits of the Benefice or Living, in pursuance of notice in writing to be affixed at least *Twenty-one* days before such meeting on the principal outer door of the Church and Chapels or Chapel, if there be such, but if not, in some public and conspicuous place within the said parish or other limits of the Benefice or Living, and to be twice inserted in some country newspaper generally circulated within the vicinage of the said parish or other limits of the Benefice or Living, if there be such, but if not, then in The London Gazette, to elect, and by writing under their hands to appoint, a fit and competent person to be a Valuer of the Tithes of the said parish or other limits of the Benefice or Living; and in voting for the appointment of such Tithe Valuer, each owner of messuages, farms, lands and tenements of an annual value of or less, shall be entitled to one vote and no more; and each owner of messuages, farms, lands and tenements of an annual value of more than shall be entitled to one vote for every of value, but so nevertheless as that no owner shall be entitled to more than votes in the whole; and such Tithe Valuer shall be elected by the majority of votes so given: Provided always, That no such owner shall be entitled to vote in respect of messuages, farms, lands or tenements acquired by purchase or gift subsequently to the presenting of the petition for such exchange; and it shall and may be lawful for the Rector, Vicar or other Incumbent of the Benefice or Living, by writing under his hand, to appoint one other fit and competent person to be another Tithe Valuer; and it shall and may be lawful for the Commissioners named in the said Commission to appoint another: Provided always, That no person shall be deemed fit or competent to act as such Tithe Valuer, who shall be the owner or occupier of any messuages, farms, lands or tenements within the parish or other limits of the Benefice or Living, or any way interested in the said Tithes or other payments intended to be exchanged, or who shall be the steward or agent of any person or persons having such interest.

by the Incumbent;

by the Commissioners.

Tithe Valuers to be sworn.

Provided always, and be it further Enacted, That no person so appointed a Tithe Valuer as aforesaid shall be capable of acting as such Tithe Valuer until he shall have taken and subscribed the oath hereinbefore directed to be taken by the Commissioners, substituting only the words "Tithe Valuer" for "Commissioner," in the said oath, which oath it shall be lawful for the said Commissioners, or any or either of them, to administer; and such oath, so taken and subscribed and countersigned by the Commissioners

Commissioners or Commissioner administering the same, shall be annexed to and deposited and returned with the other papers records and returns made and returned under such Commission.

5 And be it further Enacted, That the said Owners of land shall pay their own expenses, and those of their attornies or agents, when they or any of them shall attend any of the meetings to be held for such election as aforesaid, or for any purpose whatever connected with the proceedings for effecting such exchange of Tithes and other payments as aforesaid.

Proprietors to pay their own Expenses.

10 And be it further Enacted, That if any Tithe Valuer, so appointed or to be appointed as hereinafter mentioned, shall die, or neglect or refuse to act, or become incapable of acting, or desire to resign or be discharged from acting as such Tithe Valuer, it shall be lawful for the Commissioners aforesaid, upon satisfactory proof being given thereof to them, to declare a vacancy in the office, and to discharge such person or persons so neglecting or refusing to act, or becoming incapable of acting, or desiring to resign or be discharged therefrom; and thereupon it shall be lawful for the Rector, Vicar or other Incumbent, or the major part of the Owners of messuages, farms, lands and tenements, or the
15 Commissioners as aforesaid, to appoint or elect another Tithe Valuer after the same form or manner as the person was appointed or elected whose death or resignation or discharge has caused the vacancy; and every such newly appointed or elected Tithe Valuer shall take and subscribe the oath hereinbefore in that behalf prescribed in manner aforesaid, and shall have the like powers and authorities in all respects as if
20 he had been originally appointed or elected a Tithe Valuer as hereinbefore specified; and such oath of such newly appointed or elected Tithe Valuer, so taken and subscribed and countersigned as aforesaid, shall be annexed to, and deposited and returned with the other papers records and returns made and returned under the said Commission.
30

Power to discharge a Tithe Valuer, and to elect or appoint a new one.

And be it further Enacted, That in case any Tithe Valuer or Tithe Valuers shall neglect to act for the space of *Thirty-one* days after notice in writing shall have been given to him or them, or left at his or their last or usual place of abode, signed by any Three or more of the said
35 Commissioners, then and in every such case such neglect shall be deemed and be taken to be an absolute refusal on the part of such Tithe Valuer or Tithe Valuers to act.

Neglect to act by a Tithe Valuer, to be deemed a Refusal.

And be it further Enacted, That the said Commissioners may, out of the monies to be provided for the purposes of effecting such exchange, pay to each and every Tithe Valuer, so appointed or elected as hereinbefore mentioned, such remuneration or recompense for his or their trouble and expenses as to the said Commissioners shall appear just and reasonable.

Payment of Tithe Valuer.

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And

Allowance to
the Commis-
sioners.

And be it further Enacted, That the Commissioners who shall act in the execution of this Act, or of the powers given to or vested in them under any Commission issuing by virtue of this Act, shall be allowed and paid the following fees (that is to say;) Beneficed Clergymen and Magistrates the sum of *Twenty Shillings* each, and Barristers the sum of *Forty Shillings* each, and no more, for their trouble and expenses for each and every day they shall necessarily attend in the execution of the powers under such commission, together with a further allowance to Barristers of the sum of *One Shilling* for every mile they shall necessarily travel in going and returning to and from the places of meeting; and each of the said Commissioners shall out of such allowance pay and defray his own charges and expenses at all such meetings, and shall also thereout pay all his own travelling expenses: Provided always, That no such allowance for trouble, expenses and travelling shall be made to more than Three Commissioners who shall attend in the execution of any commission for any one day (that is to say) to one beneficed clergyman, to one magistrate, and one barrister; and if more than one of any classes or class of Commissioners shall attend in the execution of any the same commission on the same day, such allowance shall be made to one Commissioner only of each class, namely, to the Commissioners of such class first named in the commission, or first appointed to act in the execution of the same, and the other Commissioners who shall attend shall act gratuitously, and shall pay and defray their own charges and expenses of every description.

A Survey to
be made.

And be it further Enacted, That the said Commissioners shall cause the Tithe Valuers to make a Survey or Admeasurement of all the messuages, farms, lands and tenements within the parish or other limits of the Benefice or Living whereof the Tithes and other payments are intended to be exchanged, and shall cause a Map or Plan to be made thereof, specifying the quantity, in statute measure, of such respective messuages, farms, lands and tenements; and the said Commissioners shall also cause the said Tithe Valuers to make an estimate of the annual value of the Tithes yearly arising and renewing and becoming payable to the Incumbent, upon, from or in respect of the several messuages, farms, lands and tenements within the parish or other limits of the Benefice or Living, the Tithes and other payments whereof it is intended to exchange; and also to ascertain and make an estimate of the annual amount or value of all compositions real, moduses or prescriptive payments in lieu of Tithes, and of all dues, oblations and obventions payable to the Incumbent in respect of such several messuages, farms, lands and tenements, or the occupiers or inhabitants thereof, distinguishing the value of the Tithes from the amount or value of the compositions real, moduses or prescriptive payments, dues, oblations and obventions, and distinguishing the value of the compositions real, moduses and prescriptive payments (if any) which are in their

their nature of a variable value, such as compositions real, moduses or prescriptive payments of corn, meal, or other articles of a variable value, from the amount or value of those which are not in their nature of a variable value; and also distinguishing what such dues, oblations and obventions are, and the several tithable articles matters and things to which such compositions real, moduses or prescriptive payments extend; and also distinguishing the several messuages, farms, lands and tenements within the parish or other limits of the Benefice or Living which the said Tithe Valuers shall find to be wholly or partially exempt from the payment of Tithes to the Incumbent of the Benefice or Living, and the Tithes to which such exemption extends, or which such messuages, farms, lands and tenements are not liable to pay to the Incumbent; such valuation to be made according to the average annual value or amount of such Tithes, compositions real, moduses or prescriptive payments, dues, oblations and obventions, for the *Fourteen* years previously to the making of such valuation; and the said Tithe Valuers shall also ascertain the average price or value of good marketable English Wheat at the principal market in the City of London for the same period; and as soon as such Admeasurement, Map or Plan and Valuation shall be completed, the said Tithe Valuers shall deliver the same to the said Commissioners, with such observations and explanations written thereon or annexed thereto, as the said Tithe Valuers shall think necessary and proper; and if such Tithe Valuers shall differ in opinion upon any matters contained in or relating to such admeasurement, map or plan or valuation, such difference of opinion shall be specially mentioned in such return so made by the said Tithe Valuers to the said Commissioners.

Provided always, and be it further Enacted, That the said Commissioners shall in the first instance fix and appoint a time within which the said Tithe Valuers shall make their return to them, which time the said Commissioners may enlarge from time to time as they shall see fit, by an order made either before or after the same shall have expired, in which order the ground and cause of enlarging the same shall be expressed; and if the said Tithe Valuers shall fail to make their return within the time fixed and appointed by the said Commissioners for that purpose, either in the first instance or by any subsequent order, the said Commissioners may take such failure of the said Tithe Valuers into account in distinguishing the amount of the remuneration or recompense to be made to the said Tithe Valuers or any of them for their trouble and expenses, in case the said Commissioners shall think such failure was owing to the neglect or inattention of the said Tithe Valuers or any of them.

Tithe Valuers to make their Return within a specified time.

And be it further Enacted, That as soon as such Admeasurement, Map or plan and Valuation, shall have been delivered by the said Tithe Valuers to the said Commissioners, the same shall be by them deposited

Proceedings of the Commissioners on the Tithe Valuers Return.

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at

at some convenient place in the said parish or other limits of the said
 Benefice or Living, for the inspection of all persons interested in the
 said messuages, farms, lands or tenements, or tithes and other payments ;
 and such Commissioners shall, within *Fourteen* days next after such
 Admeasurement, Map or plan and Valuation shall have been so depo- 5
 sited, give notice in the manner hereinbefore directed with regard to the
 notice to be given of the meeting for the appointment of a Tithe Valuer
 for the owners of messuages, farms, lands and tenements, that such Ad-
 measurement, Map or plan and Valuation have been so deposited, and 10
 where the same may be inspected ; and shall also in such notices and
 every of them appoint some convenient place, and so many and such
 days and times as they shall think necessary and proper (the first not
 earlier than *Twenty-one* days from such notice) when and where they
 will attend to hear objections from any person or persons interested
 in the said messuages, farms, lands or tenements, tithes and other 15
 payments, who may be dissatisfied with such Admeasurement, Map
 or plan and Valuation ; and the said Tithe Valuers, unless prevented
 by illness or other unavoidable accident, shall attend at the place
 and days and times appointed for the meeting of the Commissioners ;
 and the said Commissioners at such meetings as aforesaid shall 20
 hear and determine any objections which may be then and there
 made to the said Admeasurement, or Map or plan or Valuation, or
 adjourn the further hearing thereof, if they shall think proper, to a
 future meeting or meetings ; and it shall be lawful for the said Com-
 missioners to examine the said Tithe Valuers, and any other person 25
 or persons on oath, or in case of a Quaker or Quakers, on solemn
 affirmation, touching the matters of such objections, which oath or affir-
 mation the said Commissioners, or any or either of them, are or is
 hereby empowered to administer ; and the said Commissioners shall
 and may, if they shall see occasion, direct the said Tithe Valuers to 30
 make any further or other valuation of the Tithes and other payments
 arising to the Incumbent, upon, for or in respect of the said farms,
 messuages, lands or tenements or any of them, or the inhabitants thereof,
 and also shall and may employ any surveyor or surveyors, or take the
 opinion of counsel, to assist them in coming to a just conclusion touch- 35
 ing such objections ; and the said Commissioners shall from time to
 time fix further meetings for the hearing and determining of objections
 against the said Admeasurement, or Map or plan or Valuation, if they
 shall think it necessary and proper so to do, of which further meetings
 notice shall be given in manner hereinbefore directed with regard to the 40
 original meetings ; and when the said Commissioners shall have heard
 and determined all such objections (if any) as may be so made, they are
 hereby required, if they shall see occasion, to cause such Admeasure-
 ment, or Map or plan, or Valuation, or any statement respecting or
 accompanying the same, to be altered ; and if any alteration or alterations
 be made therein, such Admeasurement, Map or plan and Valuation

so altered shall be left and deposited at the same place at which the Admeasurement, Map or plan and Valuation were originally deposited, for the inspection of all persons interested in the said farms, messuages, lands or tenements, tithes and other payments, and a notice or
 5 notices in writing shall be forthwith given of the depositing of such altered or amended Admeasurement, Map or plan and Valuation, as hereinbefore directed to be given with respect to the depositing of the original or first made Admeasurement, Map or plan, and Valuation; and the same proceedings shall be had with regard to such altered or
 10 amended Admeasurement, Map or plan, or Valuation as are hereinbefore directed to be had with respect to the original or first deposited Admeasurement, Map or plan and Valuation, and so as often as the said Commissioners shall make any alteration in the Admeasurement, Map or plan, or Valuation, in consequence of any objections made thereto :
 15 Provided also, That in all cases in which there shall be any such difference of opinion between the Tithe Valuers as aforesaid, the said Commissioners shall, at the first meeting appointed to hear objections to the Admeasurement, Map or plan and Valuation, or some adjournment thereof, determine which opinion of the Tithe Valuers they adopt, either
 20 with or without alteration, and shall then proceed with regard to such Admeasurement, Map or plan and Valuation so adopted by them, either with or without alteration, in the same manner as they are hereinbefore directed to proceed with regard to an Admeasurement, Map or plan, or Valuation altered by them in consequence of objections made thereto as
 25 aforesaid.

And be it further Enacted, That if any Admeasurement or Admeasurements, Map or Maps, Plan or Plans, Valuation or Valuations previously made of the messuages, farms, lands or tenements in the parish or other limits of the Benefice or Living, the Tithes and other
 o payments whereof it is intended to exchange, or of the Tithes and other payments intended to be exchanged, shall be produced and laid before the said Commissioners, and of the authenticity and accuracy of which they shall be satisfied, it shall and may be lawful to and for the said Commissioners, with the consent of the Ordinary, Patron and Incumbent of the Benefice or Living, and of the major part in value of the
 35 Owners of messuages, farms, lands and tenements within the parish or other limits of the Benefice or Living, signified by any writing under their respective hands, to adopt and make use of the same for the purposes of this Act, without causing a new Admeasurement, Map or plan or Valuation to be made of such messuages, farms, lands or tenements, or tithes
 40 and other payments, in manner hereinbefore directed; and in every such case the said Commissioners shall proceed with respect to such adopted Admeasurement, Map or plan or Valuation, as they are hereinbefore directed to proceed with respect to the Admeasurement, Map or plan or
 10. Valuation

Old Plans and Surveys may be used, if the Commissioners think proper.

Valuation which otherwise would have been made and delivered to them by the Tithe Valuers.

Power to enter into Lands.

And be it further Enacted, That the Commissioners and the Tithe Valuers, and the Surveyor or Surveyors to be employed as aforesaid, and any person or persons employed as clerk, servant or agent to the said Commissioners or Tithe Valuers or Surveyor or Surveyors respectively acting under the powers vested in them by this Act, or any Commission granted in pursuance thereof, shall and may enter into and upon all and every or any of the messuages, farms, lands or tenements in the parish or other limits of the Benefice or Living, the Tithes and other payments whereof it is intended to exchange, without being subject to any action or molestation for so doing. 5 10

Commissioners to determine Disputes.

And be it further Enacted, That if any dispute or difference shall arise between any person or persons, body or bodies corporate politic or collegiate, interested in or claiming to be interested in any messuages, farms, lands or tenements within the parish or other limits of the Benefice or Living, the Tithes and other payments whereof are intended to be so exchanged, or in the said Tithes and other payments, or any of them, touching or concerning any claim or claims of any right title or interest of in or to any Tithes, compositions real, moduses or prescriptive payments in lieu of Tithes, dues, oblations or obventions, within the parish or other limits of the Benefice or Living, or any claim or claims of any exemption from the payment of such Tithes and other payments, or any of them, or any claim or claims of any compositions real, or moduses or prescriptive payments in lieu of such Tithes, or any of them, or touching or concerning the extent or boundaries of any messuages or farms, lands or tenements claimed to be exempt from the payment of Tithes, or not to be liable to the payment of Tithes to the Incumbent, or claimed to be covered by any compositions real, moduses or prescriptive payments in lieu of Tithes, or touching or concerning the value or amount of such Tithes or other payments, or any of them, or touching or concerning any other matter or thing in or relating to the said Admeasurement, Map or plan or Valuation, it shall and may be lawful for the said Commissioners to hear and determine the same: Provided always, That nothing in this Act contained shall authorize the said Commissioners to determine the title to any messuages, farms, lands or tenements whatever. 15 20 25 30 35

Power to assess Costs.

And be it further Enacted, That in case the said Commissioners shall, upon hearing and determining of any claim or claims, objection or objections, to be made or delivered to them in pursuance of this Act, see cause to award costs on either side, it shall be lawful for the said Commissioners and they are hereby empowered, upon application made

made to them for that purpose, to settle, assess and award and order such costs and charges as they shall think reasonable to be paid to the party or parties in whose favour any determination of the said Commissioners shall be made, by the person or persons, body or bodies politic corporate or collegiate, whose claim or claims, objection or objections shall be thereby disallowed or overruled; and in case the person or persons, body or bodies politic corporate or collegiate, who shall be ordered to pay such costs and charges, shall neglect or refuse to pay the same on demand, then and in every such case it shall be lawful for the said Commissioners, and they are hereby authorized and required, by warrant under their hands, directed to any person or persons whomsoever, to cause such costs and charges to be levied by distress and sale of the goods and chattels of the person or persons, body or bodies politic corporate or collegiate, so neglecting or refusing to pay the same, rendering the overplus of the money produced by such sale (if any) upon demand, to the person or persons, body or bodies politic corporate or collegiate, whose goods and chattels shall have been so distrained and sold, after deducting the costs and charges attending such distress and sale.

20 Provided always, and be it further Enacted, That in case any person or persons, body or bodies politic corporate or collegiate, interested or claiming to be interested in any messuages, farms, lands and tenements within the parish or other limits of the Benefice or Living, the Tithes and other payments whereof it is intended to exchange, or in such Tithes or other payments, or any of them, or any part thereof, shall be dissatisfied with any determination of the said Commissioners, touching or concerning the value or amount of such Tithes or other payments, or any of them, or any part thereof, it shall and may be lawful to and for such person or persons, body or bodies politic corporate or collegiate, so dissatisfied with such determination, to appeal to the quarter or general sessions of the peace which shall be held in and for the county, riding, division or place within which such parish or other limits of the Benefice or Living, or the greater part thereof, shall be situated, next or next but one after such determination shall have been notified in writing to the party or parties interested therein, or to his her or their known agent or attorney; and the Justices at such sessions shall hear and determine the matter of every such Appeal; provided that notice in writing of such Appeal, under the hand of the party or parties complaining, or his or their agent or attorney, specifying the ground or grounds of complaint, be given to the said Commissioners, and also to the party or parties in whose favour the determination of the said Commissioners shall have been, by leaving the same at his her or their last or usual place or places of abode, or at the last or usual place or places of abode of his her or their known agent or agents, attorney or attornies, *Ten days* at least before such sessions; and the said Justices at such sessions, or any

Appeal to the
Sessions.

jourment thereof, shall make such Order touching the matter of such Appeal, and shall, if they see fit, award such costs to be paid by one of such parties to the other of them, as to them the said Justices in their discretion shall seem proper and reasonable, and by their order or warrant levy the costs which shall be so awarded by distress and sale of the goods and chattels of the party or parties ordered to pay the same, rendering the overplus of the money produced by the sale (if any) upon demand, to the owner or owners of such goods and chattels, after deducting the reasonable charges of every such distress and sale; and every Determination and Order of the said Justices upon such Appeal shall be final and conclusive, touching or concerning such disputed value or amount of such Tithes or other payments, or any of them, or any part thereof, on all parties concerned, and shall be adopted by the said Commissioners in making their award under and by virtue of this Act.

Allowing Parties to try their Rights by an Issue at Law;

Provided always, and be it further Enacted, That in case any person or persons, body or bodies politic corporate or collegiate, interested or claiming to be interested in any messuages, farms, lands or tenements within the parish or other limits of the Benefice or Living, the Tithes and other payments whereof it is intended to exchange, or in such Tithes and other payments, or any of them, shall be dissatisfied with any determination of the said Commissioners, touching or concerning any claim or claims of any right title or interest of in or to any Tithes, compositions real, moduses or prescriptive payments, dues, oblations or obventions, within the parish or other limits of the Benefice or Living, or of any exemption from the payment of such Tithes and other payments, or any of them, or non-liability to pay the same to the Incumbent, or of any composition real, or moduses or prescriptive payments in lieu of such Tithes, or any of them, or touching or concerning the extent or boundaries of any messuages, farms, lands or tenements claimed to be exempt from the payment of Tithes, or to be covered by any compositions real, moduses or prescriptive payments in lieu of Tithes, it shall and may be lawful to and for such person or persons, body or bodies politic corporate or collegiate, so dissatisfied with such determination, to cause an Action or Actions to be brought upon a feigned issue or feigned issues against the person or persons, body or bodies politic corporate or collegiate, in whose favour such determination shall have been made, within *Three* calendar months next after such determination shall have been notified in writing to the party or parties interested therein, or to his her or their known agent or attorney; and the person or persons, body or bodies politic corporate or collegiate, so dissatisfied as aforesaid, shall proceed to a trial at law of such issue or issues at the then next or the second assizes to be holden for the county within which such parish or other limits of the Benefice or Living, or the greater part thereof, may be situated, after such action or actions

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actions shall have been so commenced, with liberty nevertheless for the court in which the action or actions shall have been commenced, to extend the time for going to trial therein, or to direct the trial to be in another county if it shall seem fit to such court so to do; and the

5 defendant or defendants in such action or actions shall name, and he she or they is and are hereby required to name an attorney or attorneys, who shall file common bail, or appear thereto, and accept one or more issue or issues whereby such claim or claims and the right or rights thereby intended to be tried, may be tried and determined, and which

10 issue or issues shall be settled by the proper officer of the court in which the said action or actions shall be commenced, in case the parties shall differ about the same; and the parties in such action shall produce all deeds papers and writings relating to the matters in issue, in their respective hands custody or power, upon the trial of such issue or

15 issues, and otherwise as the court in which such action or actions shall be brought shall order and direct, in the manner and subject to the rules ordered and directed and followed in and by Courts of Equity in cases of issues directed to be tried by such courts; and the verdict or verdicts which shall be given in such action or actions shall be final and

20 binding and conclusive upon all and every person or persons, body or bodies politic corporate or collegiate, parties therein or thereto, unless the court wherein such action or actions shall be brought shall set aside such verdict or verdicts, and order a new trial to be had of the issue or issues therein, which it shall be lawful for the said court, if it shall see

25 fit to do, as is usual in other cases of actions brought in such court; and after such verdict or verdicts shall be obtained and not set aside by the court, the said Commissioners shall and they are hereby required to allow or disallow the claim or claims thereby determined, according to the event of such trial; and the costs of such action or actions shall

30 be in the discretion of the court in which the same shall be brought, and shall and may be taxed by the proper officer of the court, and recovered as in other cases of actions brought in such court.

Provided always, and be it further Enacted, That in case any such claim or claims shall involve a question or questions of law only, and the

35 parties in difference shall be agreed upon the facts relating thereto, then and in every such case it shall and may be lawful to and for the said Commissioners, at the instance and request of the person or persons, body or bodies politic corporate or collegiate, dissatisfied with the determination of the said Commissioners touching the same (such request to be

40 made to the said Commissioners within *Three* calendar months after such determination shall have been notified in writing to the party or parties interested therein, or to his her or their known agent or attorney, and *Fourteen* days at least previous notice of such request to be given to the person or persons, body or bodies politic corporate or collegiate, in whose favour such determination of the said Commissioners shall have been made, or to his her or their known agent or agents, attorney

10. or

Or to take the
Opinion of a
Court of Law
or Equity
thereon;

or attornies, in manner hereinbefore directed in cases of appeal) to direct a case to be stated for the Opinion of such one of His Majesty's courts of common law or equity at Westminster as the said Commissioners shall think fit, for the opinion of such court upon such claim or claims; which case shall be settled by the said Commissioners or under their direction, in case the parties differ about the same; and the matter shall and may be brought before such court in a summary way by petition or motion, and the court shall decide upon the same; and every decision of such court upon such claim or claims so brought before it shall be binding upon all parties concerned therein, and the said Commissioners shall and they are hereby required to allow or disallow such claim or claims according to the decision of such court thereon; and the costs of stating such case and obtaining a decision thereon shall be in the discretion of the court by which the same shall be decided, and shall and may be taxed by the proper officer of the court, and be recovered as in cases of costs of actions or suits brought in such court.

Or to refer or compound disputed Rights.

Provided always, and be it further Enacted, That it shall and may be lawful to and for all and every person or persons, body or bodies politic corporate or collegiate, interested or claiming to be interested in any messuages, farms, lands or tenements within the parish or other limits of the Benefice or Living, the Tithes and other payments whereof are intended to be exchanged, or in such Tithes and other payments, or any of them, or any part thereof, to refer any such dispute or disputes, claim or claims as aforesaid, to arbitration, or to compound the same, so as that in case such dispute or disputes, claim or claims concerns the interest of the Incumbent of the Benefice or Living, such reference or composition be with the consent as well of the said Commissioners as of the Incumbent, Ordinary and Patron of the Benefice or Living, signified under their respective hands and the official seal of the Ordinary, and so also as that in case such claim or claims be of a general nature, such reference or composition be with the consent of *Two thirds* at least in value of the Owners of the messuages, farms, lands and tenements to which the same extends, under their respective hands; and the award of the arbitrators upon any such reference, and any such composition of any such dispute or disputes, claim or claims, shall be final and conclusive on all parties concerned, and shall be adopted by the said Commissioners in making their award under and by virtue of this Act.

Determination of Commissioners not overruled by the Event of Trial, &c. to be final.

Provided always, and be it further Enacted, That the determination of the said Commissioners touching or concerning any such difference, dispute or disputes, claim or claims as aforesaid, concerning which, or from or against which no power of bringing an action or actions or of stating a case, or bringing an appeal, is hereinbefore given, or which shall not be overruled by the event of the trial in any such action or actions, or by the judgment of the court upon any

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any such case or in any such appeal as aforesaid, or which shall not be concluded by any such award or composition as aforesaid, shall be final and conclusive on all parties concerned.

And be it further Enacted, That the proceedings under any such
 5 Commission shall not abate or cease by reason of the death of the Patron or Rector, Vicar or other Incumbent of the parish or other limits of the Benefice or Living, the Tithes whereof are sought to be exchanged as aforesaid, or by reason of the deaths or death of any other person or persons interested in such exchange, but such pro-
 10 ceedings shall go on as if all the original parties hereto were living.

Proceedings under the Commission not to abate by Death of Patron, Incumbent, &c.

And be it further Enacted, That if any of the parties in any action or appeal, or to any case or reference to be brought or stated or had in pursuance of this Act, shall die pending the same, such action, appeal, case or reference shall not abate or be stayed by reason thereof, but
 15 shall be proceeded in as if no such event had happened.

If any of the Parties die, Proceedings in Actions, &c. not to abate.

And be it further Enacted, That if any person or persons in whose favour any such determination as aforesaid shall have been made, and against whom any such action or actions or appeal might have been brought, or concerning whose claim or claims any such case might have
 20 been stated, if living, shall die before any such action or actions or appeal shall have been brought or case stated, and before the expiration of the time hereinbefore limited for bringing such action or actions or appeal, or applying for such case, it shall be lawful for the person or persons, or body or bodies politic corporate or collegiate, who might
 25 have brought such action or actions or appeal, or have had such case stated against the person or persons so dying, to bring or have the same within the time so limited as aforesaid, nominally against such person or persons as if actually living, and to serve the clerk of the said Commissioners with process or processes and notices therein or relating
 30 thereto, in the same manner as the person or persons deceased might have been served therewith if living; and it shall also be incumbent on the heir or heirs of such person or persons, or other person or persons who shall claim or be entitled to the benefit of such determination as aforesaid, or in case of such heir or heirs or other person or persons
 35 claiming to be entitled as aforesaid, being under coverture, a minor or lunatic, minors, lunatics, beyond the seas, or under any other disability whatsoever, then on the husbands, guardians, trustees, committees or attornies of such heir or heirs or person or persons claiming to be entitled as aforesaid, and on their behalf to appear and defend such action
 40 or actions or appeal to the matter of such case in the name or names of the person or persons so dead, and proceedings shall be had therein in the same manner as if such person or persons had been actually living; and the rights of all parties shall be equally bound and con-
 10. E. cluded

In case of Deaths of Parties before Actions brought, &c. the same to be carried on and defended in their Names.

cluded by the event of such action or actions or appeal, or the decision upon such case.

Award of the
Commissioners.

And be it further Enacted, That the said Commissioners, after such meeting or meetings for the hearing and determining of objections as aforesaid shall have been had, and all such differences, disputes and claims as aforesaid shall have been finally determined or concluded by the said Commissioners, or by any other means hereinbefore provided and directed, shall make an Award or instrument in writing of and concerning the premises, in manner following, (that is to say) in such Award or instrument shall be expressed in words, or by reference to the Map or Maps, Plan or Plans, hereinbefore directed to be made and approved of by the said Commissioners, or to any Schedule or Schedules which the said Commissioners may think proper to incorporate with or annex to the said Award, the quantity and contents in statute measure of the several messuages, farms, lands and tenements within the parish or other limits of the Benefice or Living, the Tithes and other payments whereof are intended to be exchanged, with the names of the Owners and Occupiers thereof respectively; and therein also shall be expressed the Tithes, dues, oblations and obventions which are payable to the Incumbent of the Benefice or Living generally throughout the parish or other limits of the Benefice or Living, and whether such Tithes are payable in kind, or whether any compositions real, moduses or prescriptive payments are payable in lieu and satisfaction of such Tithes, or any of them, generally throughout the parish or other limits of the Benefice or Living, or any parts or part thereof, and what such compositions real, moduses or prescriptive payments (if any,) and which of such compositions real, moduses and prescriptive payments (if any) are in their nature of a variable value; and therein also shall be expressed such of the messuages, farms, lands and tenements within the parish or other limits of the Benefice or Living, if any, as are exempt from the payment of Tithes, or are not liable to pay Tithes to the Incumbent, either wholly or partially, and the ground or grounds of such exemption or non-liability to pay Tithes to the Incumbent, and to what Tithes the same extends, and also such of the messuages, farms, lands or tenements within the parish or other limits of the Benefice or Living (if any) as pay compositions real, moduses or prescriptive payments in lieu and satisfaction of Tithes, and what such last-mentioned compositions real, moduses or prescriptive payments are, and the Tithes covered thereby, and which of them (if any) are in their nature of a variable value; and therein also shall be expressed the annual value or amount of the Tithes, compositions real, moduses or prescriptive payments, dues, oblations and obventions arising and payable upon, from, or in respect of the several messuages, farms, lands and tenements within the parish or other limits of the Benefice or Living respectively, and the occupiers or inhabitants thereof, to the

the Incumbent of the Benefice or Living, on the average of the *Fourteen* years previous to the making the aforesaid valuation thereof, the value of the Tithes being distinguished from the value or amount of the compositions real, moduses or prescriptive payments, dues, oblations and obventions, and the value of the compositions real, moduses and prescriptive payments (if any) which are in their nature of a variable value, being distinguished from the value or amount of the compositions real, moduses and prescriptive payments, which are not in their nature of a variable value; and therein also shall be expressed the average value of good and marketable English Wheat at the principal market in the City of London, for the same period; and the sums of money which shall be so expressed in such Award to be the value or amount of the Tithes, compositions real, moduses or prescriptive payments, dues, oblations, and obventions arising and payable upon, from, or in respect of such several messuages, farms, lands and tenements respectively, and the occupiers or inhabitants thereof, shall, from and after such time as the said Commissioners shall in and by the said Award appoint, be annually payable to the Incumbent of the Benefice or Living for ever, for and in lieu and full satisfaction, discharge and extinguishment of all and all manner of Tithes, compositions real, moduses or prescriptive payments, mortuaries, Easter and other dues, oblations and obventions whatsoever, arising and payable to such Incumbent upon, from, or in respect of such several messuages, farms, lands and tenements respectively, and the occupiers and inhabitants thereof, save and except as hereinafter mentioned, and subject nevertheless, as to the value of the Tithes and the compositions real, moduses or prescriptive payments (if any) in their nature of a variable value, to the proviso for re-ascertaining the value thereof from time to time hereinafter contained: And the said Commissioners shall in such Award further set forth and declare the period at or from which such annual payments shall commence, and whether the same shall be paid by yearly, half-yearly or quarterly payments, and the day or days upon which they shall severally be paid; and the said Commissioners shall in such their award set forth all such other explanatory statements, particulars and requisites, together with all such orders, directions and regulations as shall be by them thought proper and necessary for the perfecting, completing and effectuating the said exchange, and for rendering every matter and thing relating thereto clear, plain and intelligible, according to the true intent and meaning of this Act and the several powers and provisions therein contained; and three copies or transcripts of the said Award or instrument shall be fairly ingrossed or written upon parchment, and shall be read and examined and executed by the said Commissioners or any three or more of them, whereof one shall be such beneficed clergyman as aforesaid, one such barrister as aforesaid, and one such magistrate as aforesaid, in the presence of the parties interested in the messuages, farms, lands and tenements within the parish or other limits of the

10. Benefice

Execution of
the Award to
be proclaimed
in Church.

Benefice or Living, the Tithes and other payments whereof it is intended to exchange, and in such Tithes and other payments, or of their duly authorized agents, who may attend at a meeting to be called for that purpose, of which *Twenty-one* days notice at the least shall be given in some provincial newspaper usually circulated within the vicinage of the parish or other limits of the Benefice or Living, or if there be none such, then in the London Gazette, and by writing affixed to the principal outer door of the church and chapels or chapel, if there be such, or if there be not, set up at some conspicuous place within the parish or other limits of the Benefice or Living, for the same period, and shall be proclaimed at some public place within the parish or other limits of the Benefice or Living, to be appointed by the said Commissioners, once within the same period, and which proclamation shall be made by one of the church or chapel wardens or such other person as the said Commissioners shall appoint; and certificates of such proclamation, signed by any *Four* respectable inhabitants or other credible witnesses present at the making thereof, shall be made out and deposited with each of the above-named three transcripts of the said Award, each of which transcripts it is hereby declared shall be deemed an original.

Transcripts of
the Award to
be sent to the
Clerk of the
Peace, to the
Registrar of
the Consistory
Court of the
Diocese, and
to the Incum-
bent and Mi-
nister and
Churchwar-
dens.

And be it further Enacted, That within *Twenty-one* days after such proclamation, one of the Transcripts of the said Award shall be sent to the Clerk of the Peace for the county within which the parish or other limits of the Benefice or Living, the Tithes and other payments whereof have been so exchanged, or the greatest part thereof, may be locally situated, to be kept by him amongst the records of his office, to which all persons interested may at all reasonable times have recourse; another of the said Transcripts, together with the commission and all the proceedings of the Commissioners under the same, shall be deposited in the registry of the Consistory Court of the diocese within which the Benefice or Living may be situated, to be there kept and preserved among the records of the said registry in perpetual memorial thereof; and the other Transcript of the said Award shall be deposited with the Incumbent and church or chapel wardens, or other proper officer or officers of the parish or other limits of the Benefice or Living, for the time being, to be kept by them and their successors in office in the vestry or other convenient and secure place where the public books writings and papers of the parish or other limits of the Benefice or Living are kept at all times thereafter, to which all persons interested therein may have access and take copies of or extracts therefrom, on giving reasonable notice to the Incumbent and church or chapel wardens, or other such officer or officers for the time being; and either of the said three Transcripts or Awards, or a copy of the Transcripts or Awards deposited with the Clerk of the Peace or in the Registry of the Consistory Court of the diocese, under the hand of the proper officer or officers of either of those offices, shall be admitted and allowed as evidence in all courts

What Copies
shall be Evi-
dence.

courts of law and equity; and such last-mentioned Transcripts or Awards may from time to time be inspected by any person or persons on payment of *One Shilling* to the Clerk of the Peace or his deputy, or to the Registrar of the Consistory Court, or his deputy.

- 5 And be it further Enacted, That the annual, half-yearly or quarterly
Sums of money by the said Award of the said Commissioners ordered,
directed and awarded to be paid for or in lieu of the Tithes, composi-
tions real, moduses or prescriptive payments in lieu of Tithes, dues,
oblations and obventions of the several and respective messuages, farms
10 lands and tenements within the parish or other limits of the Benefice,
the Tithes and other payments whereof shall have been exchanged by
virtue of this Act, shall, and from time to time from the time when the
said Commissioners shall by their award order and direct the same to
commence, be paid by the respective Occupiers of such several mes-
15 suages, farms, lands and tenements for the time being, to the Rector,
Vicar or other Incumbent of the Benefice or Living for the time being,
on the day or days on which the same are by such award directed to be
paid, for ever.

Annual Sums
to be paid by
Occupiers of
Messuages,
&c.

- 20 And be it further Enacted, That no right or title to Tithes, composi-
tions real, moduses or prescriptive payments in lieu of Tithes, dues, obla-
tions or obventions, nor any exemptions from the payment of Tithes, or
non-liability to the payment of Tithes to the Incumbent, nor any compo-
sitions real, moduses or prescriptive payments in lieu of Tithes, within
the parish or other limits of the Benefice or Living, the Tithes and other
25 payments whereof shall have been so exchanged as aforesaid by virtue of
this Act, which shall have been determined by the said Commissioners or
by any of the other means hereinbefore mentioned, and which shall be
expressed in the said Award, shall afterwards be called in question by any
person or persons, body or bodies politic corporate or collegiate, but the
30 said Award, and all orders, directions and regulations of the said Com-
missioners contained therein, so far as the same shall be made and given
in accordance with and in pursuance of this Act and the powers and
provisions therein contained, shall be binding and conclusive on all per-
sons whomsoever and bodies politic corporate or collegiate whatsoever.

Award to be
binding and
conclusive.

- 35 Provided always, and be it further Enacted, That nothing in this Act
contained shall prejudice, lessen or defeat the right of the Incumbent
of such Benefice or Living, the Tithes and other payments whereof shall
have been exchanged by virtue of this Act, or his successors, to any fees
or payments in respect of monuments, grave-stones, vaults, graves, or
of marriages, christenings, churchings and burials, register certificates
and other payments, usually denominated Surplice Fees, arising or
becoming due to him or them within the parish or other limits of the
Benefice or Living, or to any profits of glebe or other land held in right
10. F of

Saving to the
Incumbent, of
Surplice Fees.

of such Benefice or Living, all which profits shall continue to be paid, taken and enjoyed in the same manner as before the making of the commutation.

Annual Payments in lieu of Tithes, to be subject to Taxes, Rates, &c.

Provided always, and be it further Enacted, That the annual Sums of money by the Award of the said Commissioners made payable to the Rector, Vicar or other Incumbent of any parish or other limits of any Benefice or Living, the Tithes and other payments whereof shall have been exchanged by virtue of this Act, shall in all cases be subject and liable to the payment of all Parliamentary, parochial and other taxes, rates, cesses and assessments, to the payment of which the Tithes and other payments in respect of which such annual sums are made payable were subject and liable before such exchange, or would be subject and liable in case such exchange had not taken place.

Proviso for Tithes due before Commutation made.

Provided always, and be it further Enacted, That no proceedings under this Act for effecting such exchange of Tithes for Corn Rents shall take away or affect any right or claim to Tithes or other payments which shall have accrued due before the time at which the exchange specified in the award of the Commissioners as therein directed to take effect; but all such Tithes and other payments, and any composition or compositions, or sum or sums of money payable in lieu thereof, shall and may be recovered and recoverable in like manner and by the same forms of proceeding as if this Act had not been passed.

Annual Sums to be apportioned between the Representatives and Successors of Incumbents, &c.

Provided always, and be it further Enacted, That upon the death, cession, resignation or removal of any Rector, Vicar or other Incumbent of any parish or place, the Tithes and other payments whereof shall have been exchanged by virtue of this Act, such Rector, Vicar or other Incumbent, his executors administrators or assigns, shall be entitled to and receive so much and such part of the said annual payments made payable by the award of the said Commissioners, as shall be in proportion to the number of days elapsed from the then last preceding day of payment thereof, or from the time when such Rector, Vicar or other Incumbent became first lawfully entitled in fact or by relation of law to receive the fruits of the Benefice or Living, to and inclusive of the day of such death, cession, resignation or removal.

Incumbent to have power to distrain.

And be it further Enacted, That in case the said annual, half-yearly or quarterly sums of money to be paid to the Rector, Vicar or other Incumbent for the time being of the parish or other limits of the Benefice or Living, the Tithes and other payments whereof shall have been exchanged as aforesaid, by the respective Occupiers for the time being of the several messuages, farms, lands and tenements within the parish or other limits of the Benefice or Living subject or liable to the payment thereof respectively, or any of them or any part thereof, shall be behind

or

or unpaid to such Rector, Vicar or other Incumbent for the space of *Twenty-eight* days next after the day on which the same are in and by the award of the said Commissioners directed to be paid, it shall be lawful for such Rector, Vicar or other Incumbent for the time being, his executors or administrators, or any other person lawfully entitled to collect the fruits of the said Benefice or Living, to recover such sums of money so unpaid as aforesaid from such occupiers respectively, and their respective executors and administrators, by suit in equity or by action of debt or assumpsit, wherein the plaintiff or plaintiffs may declare generally that the defendant or defendants was indebted to him or them for so much money due and payable by virtue of this Act, or by summary proceeding before Justices of the peace or other competent jurisdiction, as in cases of tithes or compositions for tithes when the value of such sums of money so unpaid does not exceed the value to which the statutes made with regard to the recovery of tithes or compositions for tithes in such cases apply, with such costs and expenses as may be recovered in any such suit action or proceeding in cases of tithes or compositions for tithes; and also to have and exercise all such powers and remedies of distress and sale for recovering such sums of money so unpaid as aforesaid, together with the costs and charges occasioned by the nonpayment thereof, from and out of the several messuages, farms, lands and tenements within the parish or other limits of the Benefice or Living subject or liable to the payment thereof, as by the laws and statutes of this realm are is or may be given for the recovery of rent in arrear upon common demise; but nevertheless so as that no messuages, farms, lands or tenements shall be subject or liable to the payment of any other or greater sum or sums of money than the particular annual, half-yearly or quarterly sum or sums of money which shall for the time being be charged upon the same messuages, farms, lands or tenements under or by virtue of this Act, and shall be in arrear, and the costs and charges of recovering the same; and so also as that in all cases of a change of occupation of messuages, farms, lands or tenements, the same and the new occupier or occupiers thereof shall not be subject and liable to the payment of more than one year's arrears of the sums of money charged upon such messuages, farms, lands and tenements, accrued previously to the occupation of such new occupier or occupiers, and the costs and charges (if any shall be incurred) of recovering the same: Provided always, That nothing herein contained shall be construed to discharge the former occupier or occupiers of such messuages, farms, lands and tenements from the payment of the remainder of such arrears.

And be it further Enacted, That in case any Action of replevin or trespass shall be brought in consequence of any distress made in pursuance of this Act, it shall be lawful for the defendant or defendants in replevin to avow or make cognizance generally in manner following,

10. (that

Declaring
what shall be
sufficient in
Actions of
Replevin.

(that is to say) That the messuages, farms, lands or tenements whereon such distress was made were liable to pay to the Rector, Vicar or other Incumbent of the parish or other limits of the Benefice or Living for the time being, such a certain sum in lieu of Tithes and other payments, during the time wherein the sum distrained for incurred, which sum was then and still remains due, without setting forth this Act or any other special matter ; and that it shall be lawful for the defendant or defendants in any action of trespass to plead the general issue, and give the special matter in evidence. 5

Limitation of
Actions and
Suits.

And be it further Enacted, That the statutes and laws now in force for the limitation of Actions and Suits for the recovery of Tithes shall be in force, and apply to the sums of money charged upon messuages, farms, lands and tenements, in lieu of Tithes and other payments exchanged by virtue of this Act. 10

Reascertain-
ing annual
Sums in lieu
of Tithes.

AND whereas in the lapse of time great variations may take place in the price of Wheat and other articles, and the annual Sums made payable by virtue of this Act and the Award of the said Commissioners, in lieu of the Tithes of messuages, farms, lands and tenements, and of compositions real, moduses or prescriptive payments in lieu of Tithes, which are in their nature of a variable value, within any parish or other limits of any Benefice or Living, the Tithes and other payments whereof may have been exchanged by virtue of this Act, may become disproportioned to what would have been the value of such Tithes and last-mentioned compositions real, moduses and prescriptive payments in case such exchange had not taken place, but such disproportion may be sufficiently remedied by subjecting such annual sums in lieu of such Tithes and last-mentioned compositions real, moduses and prescriptive payments, to be varied with the price of wheat ; BE it therefore further Enacted, That on the expiration of *Seven* years from the period fixed and declared by the Award of the Commissioners in any case to be the commencement of such annual payments in lieu of Tithes and other payments, or within *Six* calendar months therefrom, and so from time to time on the expiration, or within *Six* calendar months next after the expiration of every or any further term of *Seven* years respectively, but at no intermediate time or times, it shall and may be lawful to and for the Rector, Vicar or other Incumbent for the time being of any Benefice or Living, the Tithes and other payments whereof shall have been exchanged by virtue of this Act, or to or for any one or more of the person or persons who shall alone or collectively be Owner or Owners of messuages, farms, lands or tenements within the parish or other limits of the Benefice or Living which shall for the time being be assessed and charged with at least one-third of the whole amount of the annual Sums in lieu of Tithes and compositions real, moduses and prescriptive payments in lieu of Tithes, which are in their 15 20 25 30 35

their nature of a variable value, payable within the parish or other limits of the Benefice or Living by virtue of the Award, to give Notice, by writing to be affixed on the principal outer door of the parish church and chapels or chapel, if there be such, but if not, to be set up at some
 5 conspicuous place within the parish or other limits of the Benefice or Living, and to be published by advertisement in some provincial newspaper usually circulated within the vicinage of the said parish or other limits of the Benefice or Living, or if there be none such, then in The London Gazette (such notice to be so affixed or set up and published
 10 as aforesaid at least *Two* calendar months before such intended application, as hereinafter mentioned) of his or their intention to apply to the Justices of the peace for the county, riding, division or place within which the parish or other limits of the Benefice or Living, or the greater part thereof may be situated, at the quarter or general sessions to be
 15 held in and for the said county, riding, division or place, next after or next but one after the expiration of every such notice, to ascertain the average price of good marketable English Wheat at the principal market in the city of London, for the *Seven* years next preceding such application, and to vary and alter the annual sums in lieu of Tithes and
 20 such last-mentioned compositions real, moduses and prescriptive payments, payable out or in respect of the several messuages, farms, lands and tenements within the parish or other limits of the Benefice or Living accordingly; and upon every such application so to be made as aforesaid, the said Justices shall at such sessions inquire into and ascertain
 25 by The London Gazette, or by such other ways or means as they shall think proper, the average price of good marketable English Wheat in the principal market at the city of London, for the *Seven* years next preceding such application; and if it shall appear that such average price of wheat shall be different by one-tenth part or more of the whole
 30 of the then price, from what the average price was when first ascertained by the said Commissioners, or last previously ascertained by the said Justices, then and in every such case the said annual sums of money in lieu of such Tithes and last-mentioned compositions real, moduses and prescriptive payments, then payable to the Rector, Vicar
 35 or other Incumbent of the Benefice or Living for the time being as aforesaid, shall, as the case may require, be increased or reduced and adjusted by the said Justices in such proportions as the then price of wheat bears to the price of wheat when first ascertained by the said Commissioners, or last previously ascertained by the said Justices, and
 40 shall be declared and fixed by the order of the court accordingly, and which order such court is hereby empowered and required to make; and the said annual sums so fixed by the order of the said court shall, from the day of payment next preceding such order, remain and continue issuing and payable as aforesaid out of the said several messuages, farms, lands and tenements charged with payments in lieu of such Tithes and last-mentioned compositions real, moduses and prescriptive

10. G payments

payments respectively, instead of the annual sums in lieu of such Tithes and last-mentioned compositions real, moduses and prescriptive payments previously issuing and payable out of such messuages, farms, lands and tenements respectively, and be paid under the provisions of this Act accordingly, until such annual sums shall be again varied or altered by any subsequent order of the said Justices, to be made upon such application and in such manner as hereinbefore mentioned, and so from time to time at the end of every *Seven* years to be computed as aforesaid for ever; and the said several parties or persons as aforesaid are hereby authorized, if they shall see fit, to make such further application from time to time, upon and after the expiration of every successive term of *Seven* years, but not oftener, to be computed as aforesaid, for ever, in such and the like manner and form as hereinbefore mentioned and directed; and the costs and charges and expenses of every such application to the said court of quarter sessions, and for varying and re-ascertaining such several annual sums of money in lieu of such Tithes and last-mentioned compositions real, moduses and prescriptive payments payable as aforesaid, shall be defrayed by the party or parties, person or persons in whose favour any increase or reduction of such annual sums of money in lieu of such Tithes and last-mentioned compositions real, moduses and prescriptive payments shall be made upon such application, but in case no such increase or reduction of such annual sums of money, in lieu of such Tithes and last-mentioned compositions real, moduses and prescriptive payments, shall be made upon such application, then such costs, charges and expenses shall be defrayed by the party or parties, person or persons making such application; and in default of payment, such court, by their order or warrant, are hereby authorized and directed to levy or cause such costs charges and expenses to be levied by distress and sale of the goods and chattels of the party or parties, person or persons liable to pay the same, or of any of such parties or persons, rendering the overplus of the money produced by such distress and sale (if any) on demand, to the owner or owners of such goods and chattels, after deducting the reasonable charges of such warrants distress and sale.

Annual Sums
in lieu of
Compositions,
Moduses and
Dues, not to
be varied.

Provided always, and be it further Enacted, That the annual Sums of money by the Award of the Commissioners charged upon any messuages, farms, lands and tenements within any parish or other limits of any Benefice or Living, the Tithes and other payments whereof shall have been exchanged by virtue of this Act, in lieu of any compositions real, moduses or other prescriptive payments in lieu of Tithes, dues, oblations or obventions, not being in their nature of a variable value, shall not be liable to be varied or altered under or by virtue of the provision last hereinbefore contained, but such last-mentioned annual Sums of money shall remain and continue the same for ever; and the annual Sums of money charged upon such messuages, farms, lands and tenements respectively

respectively in lieu of Tithes and Compositions real, moduses and prescriptive payments in their nature of a variable value, shall alone be liable to be so varied and altered under and by virtue of the said provision.

AND whereas the annual Sums made payable by virtue of this Act
 5 and the Award of the said Commissioners, in lieu of the Tithes of messuages, farms, lands and tenements, and of compositions real, moduses or prescriptive payments in lieu of Tithes, dues, oblations and obventions within any parish or other limits of any Benefice or Living, the
 10 Tithes and other payments whereof shall have been exchanged by virtue of this Act, may also become disproportioned to what would have been the value and amount of such Tithes, compositions real, moduses and prescriptive payment, dues, oblations and obventions, in case such exchange had not taken place, by reason of changes in the state and mode of cultivation of lands within such parish or other limits of such Benefice
 15 or Living, or from other causes; but such last-mentioned disproportion may be remedied by subjecting such Tithes, compositions real, moduses and prescriptive payments, dues, oblations and obventions, to a new valuation at proper intervals of time; BE it therefore Enacted, That on the expiration of *Twenty-one* years from the period fixed and declared by the award of the Commissioners, in any case, to be the commencement of such annual payments in lieu of Tithes and other payments, or within *Six* calendar months therefrom, and so from time to time on the expiration or within *Six* calendar months next after the expiration of every or any further term of *Twenty-one* years from the
 20 period originally fixed and determined by the award of the Commissioners to be the commencement of such annual payments, or from the period fixed and determined by any subsequent award of Commissioners made by virtue of this clause of this Act, to be the commencement of any new annual payments in lieu of Tithes and other exchanged
 25 payments respectively, but at no intermediate time or times, it shall and may be lawful to and for the Patron or Patrons and Rector, Vicar or other Incumbent for the time being of any Benefice or Living, the Tithes and other payments whereof shall have been exchanged by virtue of this Act, or to and for such Patron or Patrons, or to and for such
 30 Rector, Vicar or other Incumbent, or to and for any one or more person or persons who shall alone or collectively be owner or owners of messuages, farms, lands or tenements within the parish or other limits of the Benefice or Living, which shall for the time being be assessed and charged with at least one-third of the whole amount of the annual sums in lieu of Tithes, compositions real, moduses and prescriptive payments
 35 in lieu of Tithes, dues, oblations and obventions within the parish or other limits of the Benefice or Living, by virtue of the original or last award, to present a petition to the Archbishop or Bishop within whose diocese the Benefice or Living is situate, praying for a commission, for the purpose of having such Tithes and compositions real, moduses and
 40 prescriptive

Real(certain-
ing annual
Sums in lieu
of Tithes, as
the state and
cultivation of
Lands vary.

prescriptive payments in lieu of Tithes, dues, oblations and obventions re-valued ; and such Archbishop or Bishop shall thereupon issue a Commission under his hand and episcopal seal, directed to Six or more Commissioners, of the same description and character as is hereby directed with regard to Commissioners under the original commission, 5 for the purpose of ascertaining the then value or amount of the Tithes, compositions real, moduses and prescriptive payments in lieu of Tithes, dues, oblations and obventions, which would have been payable to such Rector, Vicar or other Incumbent within the parish or other limits of the Benefice or Living, in case such exchange had not taken place ; 10 and the proceedings under any such new commission shall be the same, and be conducted in the same manner and form in all respects as is hereby directed with regard to original commissions, and all the provisions of this Act shall be applicable and applied to any such new commission, and for putting the same in execution, as if 15 the same had been an original commission ; and the sums of money which shall be found by the said Commissioners acting under such new commission to be the annual value or amount of the Tithes, compositions real, moduses or prescriptive payments in lieu of Tithes, dues, oblations and obventions, which would have been payable to the Rector, 20 Vicar or other Incumbent of the Benefice or Living, for or in respect of the messuages, farms, lands and tenements within the parish, or other limits of the Benefice, in case such original exchange had not taken place, shall, after the making of their award under such new commission, be yearly paid to such Rector, Vicar or other Incumbent, in lieu of the 25 annual sums of money fixed to be paid to him for or in respect of the Tithes and other payments of or from such messuages, farms, lands and tenements which were fixed by the original award, with all the same remedies for the recovery thereof and other incidents thereto as are hereby directed with regard to annual sums of money in lieu of Tithes fixed to 30 be paid by any original award ; and all the other provisions of this Act, with regard to any original award, or otherwise, shall, mutatis mutandis, be applicable to the award under such new commission, and all other matters hereby provided for, except as otherwise expressed in this clause of this Act.

35

Original
Award not to
be questioned.

Provided always, and be it further Enacted, That no right or title to Tithes, compositions, moduses or prescriptive payments in lieu of Tithes, dues, oblations and obventions, exemptions from the payment of Tithes, non-liabilities to the payment of Tithes within the parish or other limits of the Benefice or Living, which shall have been expressed in the original award, shall be called in question under such new commis- 40 sion or commissions, but all and every such right or title to Tithes, compositions real, moduses or prescriptive payments in lieu of Tithes, dues, oblations and obventions, exemptions from the payment of Tithes, non-liabilities to the payment of Tithes, expressed in the original award, shall

Provision for
Expenses of
new Com-
mission.

shall be adopted and acted upon by the Commissioners under such new commission or commissions: Provided also, That in all cases in which any such new commission shall be applied for by the Rector, Vicar or other Incumbent of the Benefice or Living, one *Third* part of the costs
5 charges and expenses of such new commission, and incident to and attending the execution of the same, shall be borne by the Rector, Vicar or other Incumbent of the Benefice or Living applying for the same, which part of such costs charges and expenses, in case the same shall exceed *Two* years annual value of the increase of Tithes
10 acquired by such Incumbent under such new commission, shall and may be charged by the Commissioners acting in the execution of the same, upon the Benefice or Living, together with the costs of charging the same thereon in manner herein after directed for charging messuages, farms, lands and hereditaments in certain cases, with the costs charges
15 and expenses of the exchange for Tithes: Provided always, That the principal money so charged upon the Benefice or Living, shall be paid off by equal half-yearly portions in *Fourteen* years from the time of the making of the charge, besides the payment of the interest due from time to time thereon quarterly, and the instrument by which the charge is made
20 shall be expressed accordingly, and such charge shall not be binding upon any successor of such Incumbent for any larger sum of money than ought to be due thereon upon his succeeding to the Benefice or Living according to the provisions aforesaid, but every Incumbent, his executors and administrators, shall be answerable for the amount of all
25 the payments of principal money and interest upon such charge which ought to have been made in his time.

Annual Sum
may be appor-
tioned.

And be it further Enacted, That it shall and may be lawful to and for the respective Owners for the time being of any messuages, lands, farms or tenements within such parish or other limits of the Benefices or
30 Livings, the Tithes and other payments whereof have been exchanged as aforesaid, respectively charged with the said annual Sums of money, or any part or parts thereof respectively, upon any division of any such farms, messuages, lands or tenements, upon the sale thereof, or otherwise, by any instrument in writing to be signed by such respective
35 Owners, and also by the Rector, Vicar or other Incumbent of the Benefice or Living for the time being, with consent of the Patron or Patrons of the said Benefice or Living, and of the Ordinary, under their respective hands and the official seal of the Ordinary, to divide and apportion the annual sum or sums of money for the time being charged upon such messuages, farms, lands and tenements, and to declare what parts or proportions thereof respectively the respective parts of such messuages, farms, lands and tenements so to be divided as aforesaid shall in future be charged with; and after every such apportionment, the annual sum or sums of money so apportioned, shall be payable and paid in such parts and proportions, and be chargeable only

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on such parts of such messuages, farms, lands and tenements as shall be specified in such instrument or apportionment in that behalf; provided that every such apportionment be made with a due regard to the security for the payment of the several parts or proportions of the said annual sum or sums of money, as ascertained by the said Commissioners 5 in and by their award; and every such instrument shall set forth and specify distinctly and accurately the number of acres, roods and perches in statute measure contained in, and the boundaries of the several parts into which such messuages, lands, farms and tenements so intended to be separately charged as aforesaid shall be divided; and there shall be 10 three parts of every such instrument, and one of such parts shall within *Two* calendar months from the date thereof be affixed to or be deposited with and for ever remain with each part of the Transcripts of the Award of the said Commissioners, for the inspection and perusal of the several persons interested therein, or their respective agents, in the same manner 15 as hereinbefore directed concerning the original Award, of which such instrument shall for ever thereafter be considered a part.

For paying
the Expenses
attending the
Commuta-
tion.

And be it further Enacted, That the costs charges and expenses of and incident to the obtaining and issuing of every such Commission as aforesaid, and the fees and payments to the said Commissioners and 20 their clerk, and surveyor or surveyors, and to any counsel they may consult, and to the said tithe valuers, and the costs charges and expenses incident to and attending the hearing and determining of such differences disputes and claims as aforesaid, except where the same shall be ordered to be paid by any of the parties making such claims, 25 or by any of the parties to such differences or disputes, by virtue of the provisions hereinbefore in that behalf contained, and all the costs charges and expenses of and incident to the preparing, making, completing and depositing of the said Award, and of the instruments, papers, writings, maps, plans and schedules relating thereunto, and copies of 30 the same, which shall be prepared or directed to be prepared by the said Commissioners, shall be settled and ascertained by the said Commissioners, and shall be borne and paid by the Owners of the messuages, farms, lands and tenements within any parish or other limits of any Benefice or Living, the Tithes and other payments whereof shall be 35 exchanged under and by virtue of this Act, in such manner and at such times, and to such persons, and in such shares and proportions under the circumstances of the case, as the said Commissioners shall from time to time direct and appoint; and in case any person or persons shall neglect to pay his her or their proportion or proportions of such costs 40 charges and expenses and other payments, in manner aforesaid, it shall and may be lawful to and for the said Commissioners, and they are hereby required by warrant under their hands and seals, directed to any person or persons whomsoever, to cause the same to be levied and recovered by distress and sale of the goods and chattels of the person or persons

persons so making default as aforesaid, wheresoever the same shall be found, rendering the overplus of the money produced by such distress and sale (if any) to the owner or owners of such goods and chattels, the reasonable charges of such warrant, and of taking keeping and selling such distress, being first deducted: Provided always, That all costs, charges and expenses and payments of and incident to every such Exchange of Tithes as aforesaid, other than such the payment whereof is expressly ordered and directed or provided for by this Act, shall be borne and paid by the party or respective parties by whom the same shall be incurred.

Provided always, and be it further Enacted, That it shall and may be lawful to and for the Husbands, Guardians, Trustees, Committees and Attornies of any of the Owners of messuages, farms, lands and tenements within any parish or other limits of any Benefice or Living, the Tithes and other payments whereof shall be exchanged under and by virtue of this Act, being under coverture, minors, lunatics, beyond the seas, or under any other disability whatever, and likewise to and for any Owners of messuages, farms, lands and tenements within any parish or other limits of any Benefice or Living, the Tithes and other payments whereof shall be exchanged under and by virtue of this Act, being tenants in tail or for life or lives, or tenants by the curtesy of England, or in dower, or for years determinable on a life or lives, or on any other contingency, to charge such messuages, farms, lands and tenements with such sum or sums of money as the said Commissioners shall by their award, or by writing under their hands, either before or after the execution of their award, adjudge necessary to defray the respective shares of such Owners, of the costs, charges and expenses incident to and attending the carrying such exchange into execution, the payment whereof is provided for by the provision lastly hereinbefore contained, and of charging the said messuages, farms, lands and tenements as aforesaid, for this purpose, by any writing or writings under their respective hands and seals, and attested by two or more credible witnesses, to grant, mortgage, surrender, lease or demise, or otherwise subject the said messuages, farms, lands and tenements unto such person or persons who shall advance and lend the same respectively, his her or their executors administrators and assigns, for any requisite term or number of years; or in case any person or persons who shall or may be liable to or charged with a share of such costs, charges and expenses as aforesaid, and enabled by this Act to charge such messuages, farms, lands and tenements with the same, shall choose to advance, pay and discharge such sum or sums of money, then it shall be lawful for the said Commissioners, by any deed or deeds, writing or writings, under their hands and seals, to be attested by two or more credible witnesses, in like manner to grant, mortgage, surrender, lease, demise or otherwise subject the said messuages, farms, lands and tenements to such person or persons respectively paying and discharging

Husbands,
tenants for
life, empower-
ed to charge
Expenses.

discharging the same, his her or their executors administrators and assigns, or any person or persons as a trustee or trustees for such person or persons respectively paying and discharging the same, for any requisite term or number of years, for securing the repayment of such sum and sums of money so advanced, lent, paid and discharged by him or them, with interest not exceeding the rate of *Five pounds* per centum per annum, so that every such grant, mortgage, surrender, lease or demise respectively be made with a proviso or condition to cease and be void, or with a proviso and condition or trust for the discharge, surrender or re-assignment of the premises, when such sum or sums of money thereby to be secured, with the interest thereof, shall be fully paid and satisfied, and also with a covenant for the payment and keeping down of the interest, so that no person or persons afterwards becoming possessed of or entitled in possession to any such messuages, farms, lands or tenements in possession, shall be liable to pay any further or larger arrear of interest than for *Six* calendar months preceding the time when his her or their title to such possession shall have commenced; and every such charge, grant, mortgage, surrender, lease or demise shall be good, valid and effectual in law for the purposes thereby intended: Provided nevertheless, That the power or proviso lastly hereinbefore contained shall not operate or extend to be construed to operate or extend to authorize or empower any person or persons whomsoever to charge or make chargeable any messuages, farms, lands or tenements with the payment of any sum or sums of money, costs, charges and expenses whatsoever, other than such the payment thereof is provided for in and by the provisions in the last preceding Clause of this Act contained, and the costs charges and expenses of charging the said messuages, farms, lands and tenements as aforesaid.

Tithe Valuers to lay their Accounts before the Commissioners, and the Commissioners to lay them, together with their own Accounts, before Two Justices once in every Year.

And be it further Enacted, That once at least in each and every year during the execution of the powers granted to or vested in the Commissioners under or by virtue of this Act, and the Commission issued in pursuance thereof (such year to be computed from the day on which the Commissioners shall hold their first meeting) the Tithe Valuers shall and they are hereby required to make a true and just Statement of account of all sums of money by them or either or any of them received and expended, or due to them for their own trouble or expenses in the execution of their office as Tithe Valuers, and to lay such Statements or Accounts, together with the vouchers relating thereto, before the said Commissioners, at a meeting to be by them called for that purpose; and the said Tithe Valuers shall then and there make oath before the said Commissioners, which oath they the said Commissioners are empowered to administer, that the said accounts are just and true, to the best of their knowledge and belief; and such accounts shall be examined, and if found correct, be allowed and balanced by the said Commissioners; and the said Commissioners shall, within *One calendar month*

month after receiving examining and allowing the said Accounts, lay the same, together with an account of all sums of money by them the said Commissioners received, expended, or due to them for their own trouble or expenses in the performance of their duty as such Commissioners, before any Two or more Justices of the peace acting for the county, riding, division or place within which the parish or other limits of the Benefice or Living may be locally situated, and neither of them being one of the said Commissioners, to be by them examined, and if found correct, allowed, and balanced ; and such balance shall be by such Justices stated in the books of accounts to be kept by the said Commissioners, and shall be signed by the said Justices ; and no charge or item in such accounts shall be binding on the parties concerned in the exchange, or valid in law, unless the same shall have been duly allowed by such Justices.

15 Provided always, and be it further Enacted, That it shall and may be lawful to and for any person or persons who for the time being shall be in the possession or occupation of any messuages, farms, lands or tenements within any parish or other limits of any Benefice or Living, the Tithes and other payments whereof shall be exchanged by virtue of this Act, under any demise or lease or agreement for a demise or lease thereof, by, from or with the Owner or Owners of such messuages, farms, lands or tenements, which shall be in existence at the time of the issuing of the Commission, and not expired or determined at the time from which the annual sum or sums of money charged upon such messuages, farms, lands or tenements shall be by the award of the Commissioners directed to commence, and who shall pay such annual sum or sums of money to the Rector, Vicar or other Incumbent of the parish or other limits of the Benefice or Living, during the remainder of the demise, lease or agreement, to retain and deduct the amount thereof out of and from the rent or rents payable by such person or persons to the owner or owners of such messuages, farms, lands or tenements, in respect of which any such annual sum or sums of money may be so paid, or otherwise to demand and recover the amount thereof of and from such owner or owners ; and the Owner or Owners of such messuages, farms, lands and tenements shall be entitled to receive of and from such person or persons in the possession or occupation of such messuages, farms, lands or tenements, the same Tithes, compositions real, moduses or prescriptive payments, dues, oblations and obventions, or such composition or compositions in lieu thereof, or any of them, during the remainder of the demise lease or agreement, as such Rector, Vicar or other Incumbent would have been entitled to receive upon, from or in respect of such messuages, farms, lands or tenements during the same period, in case such exchange had not taken effect, unless at the time of the issuing of the Commission, or at any time thereafter, there shall have been any agreement in writing between any such Owner or Owners and person or persons in the possession or occupation of such messuages,

Tenants may
in certain
cases deduct
Sums paid.

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farms,

farms, lands or tenements, signed by them or their agents lawfully authorized in that behalf, respecting the said Tithes, compositions real, moduses or prescriptive payments in lieu thereof, dues, oblations and obventions, or such annual sum or sums of money charged or to be charged by virtue of the award, to the contrary thereof; but any and every such agreement in writing between the parties, signed as aforesaid, to the contrary of the provisions before contained in this Clause of this Act, shall be binding upon such parties and every of them. 5

Where a Parish is divided into separate Townships, to be considered two Parishes for the purposes of this Act.

Provided always, and be it further Enacted, That where any Parish or other limits of any Benefice or Living shall be divided into separate townships, the provisions of this Act may be carried into effect with regard to any or either of such townships, as if the same were a separate Parish or the limits of a separate Benefice or Living, without the Owners of the messuages, farms, lands and tenements within the other townships or township of the Parish or other limits of the Benefice or Living joining in the exchange; and in every such case the townships or township, the Tithes and other payments whereof shall be intended to be exchanged, shall, for the purpose of effecting such exchange be considered as a separate Parish, or the limits of a separate Benefice or Living, and all the provisions of this Act shall be applicable thereto as such accordingly. 10 15 20

Where the Benefice is sequestered, the Incumbent shall not act without the Consent of the Sequestrators.

Provided also, and be it Enacted, That whenever any Sequestration of the profits of any Benefice or Living shall be taken out and in force, it shall not be lawful for the Rector, Vicar or other Incumbent of such Benefice or Living to do any matter or thing whatever in the execution of this Act, for, towards or relating to the effecting such exchange of the Tithes and other payments within the parish, or other limits of such Benefice or Living, without the consent in writing under the hand or hands of the person or persons by whom or on whose behalf such Sequestration shall have been taken out, so long as such Sequestration shall remain in force; and that all matters and things which shall be done with relation to this Act by any such Rector, Vicar or other Incumbent without the consent of such person or persons in writing as aforesaid, shall be null and void; any thing in this Act contained to the contrary thereof in anywise notwithstanding. 25 30 35

Authority of Archbishops and Bishops to extend to Peculiars.

AND whereas there are within divers dioceses certain exempt jurisdictions called Peculiars, belonging to the Archbishops and Bishops of other dioceses, and it is expedient that all the powers and authorities given by this Act to the Bishops of the diocese should, as to such Peculiars, be given to the Archbishop or Bishop to whom the same respectively belong; BE it therefore further Enacted, That all and every the powers and authorities given by this Act to the Bishop of any diocese, shall, with respect to the several Peculiars locally situated within such diocese, be vested in and exercised by the Archbishop or Bishop to whom such Peculiars shall respectively belong, and not in and by the Bishop 40

398

Bishop within whose diocese such Peculiars shall be locally situated ; but that within all and every Peculiar and Peculiars belonging to any other person or corporation than Archbishops or Bishops, such powers and authorities shall be vested in and exercised by the Bishop of the diocese within which such Peculiars shall be locally situated.

Provided also, and be it further Enacted, That in all cases where the patronage of any Ecclesiastical Benefice or Living to which the provisions of this Act extend shall be in the Crown, and such Benefice or Living shall be above the yearly value of *Twenty Pounds* in the King's books, the consent of the Crown, and all other proceedings thereby authorized and directed to be done by the Patron respecting such Benefice or Living, shall be signified and done by the Lord High Treasurer or First Lord Commissioner of the Treasury for the time being ; but if such Benefice shall not exceed the yearly value of *Twenty Pounds* in the King's books, such consent shall be signified and such acts done by the Lord High Chancellor, Lord Keeper or Lords Commissioners of the Great Seal for the time being ; and if such Benefice shall be within the patronage of the Crown in right of the Duchy of Lancaster, then such consent shall be signified and such acts done by the Chancellor of the Duchy for the time being.

Consent where the Livings belong to the Crown or to the Duchy of Lancaster.

Provided always, and be it further Enacted, That in all cases where the patronage of any Benefice or Living to which the provisions of this Act extend, shall belong to the Archbishop or Bishop within whose diocese or peculiar the Benefice or Living is situate, the consent of such Archbishop or Bishop to proceedings being taken to effect an exchange of the Tithes and other payments within the parish or other limits of the Benefice or Living, and his issuing his commission in that behalf, shall be a sufficient compliance with the provisions of this Act, without such Archbishop or Bishop having signed the Petition for liberty to proceed to such exchange, or his consent thereto, previously to the presenting of the same.

Where the Livings belong to the Archbishop or Bishops, &c.

Provided also, and be it further Enacted, That in all cases when the same person or persons, body or bodies politic corporate or collegiate, shall be Patron or Patrons, Incumbent, and Owner or Owners of messuages, farms, lands and tenements of or within the parish or other limits of the Benefice or Living, the Tithes and other payments whereof are sought to be exchanged by virtue of this Act, or shall sustain any more than one of such characters, all and every such person or persons, body or bodies politic corporate or collegiate, shall and may act in all and every of the characters which he or they shall so sustain, and perform all and every or any of such acts as shall be required to be done by him or them, or he or they is or are authorized to do, under and by virtue of the provisions of this Act, in all or any or every of such characters

Where the same Person is Patron, Incumbent, &c.

which he or they shall so sustain, as fully and effectually as different persons or bodies politic corporate or collegiate, each sustaining one of those characters only, might perform and do the same.

Consent for
Patrons and
Owners, in
case of Mino-
rity, Lunacy,
&c.

And be it further Enacted, That whenever the patron of any Ecclesiastical Benefice or Living to which the provisions of this Act extend, 5
or the owner of any messuages, farms, lands and tenements within the parish or other limits of the Benefice or Living, shall happen to be a minor, idiot, lunatic or feme covert, or beyond the seas, it shall and may be lawful for the guardian, trustees or trustee, committee or husband, or attorney of every such patron, or owner, to sign the petition to the Bishop to give consent, and to do and transact all the several matters 10
and things hereinbefore required or authorized to be done by such patron or owner, for such patron or owner, who shall be bound thereby in such manner as if he or she had been of full age or sound mind, or feme sole, or within the seas, and had himself herself or themselves 15
done such act; and all acts done in pursuance of this Act, by or on behalf of any patron or owner, who shall be tenant in tail, tenant for life, tenant by the curtesy, or in dower, or tenant for a term of years determinable upon a life or lives, every of which tenant in possession or entitled to the possession, or the receipt of the rents and profits of any 20
messuages, farms, lands or tenements, or any parts or shares, part or share thereof, shall be deemed the owner thereof, or of such parts or shares, part or share within the meaning of this Act, shall be as valid as if such patron or owner had been tenant in fee-simple, and shall be binding upon all persons having or claiming, or who shall have or claim, any estate, right, 25
title or interest in reversion or remainder after such particular estate in the advowson of the Benefice or Living, messuages, farms, lands or tenements.

Value to be
ascertained by
the Poor
Rates.

And be it further Enacted, That whenever the major or any other part in value of the Owners of messuages, farms, lands and tenements is men- 30
tioned in this Act, such value shall be estimated according to the sums at which such messuages, farms, lands and tenements are rated to the relief of the poor, where there is such a rate, but where not, then such value shall be estimated upon the principle upon which property of that kind is rateable to the relief of the poor. 35

Commission-
ers Award
after being
executed not
to be invali-
dated.

And be it further Enacted, That the said Commissioners Award, after the same shall have been executed and proclaimed, and Transcripts thereof shall have been sent to the Clerk of the peace, and deposited in the registry of the Consistory Court of the diocese, and with the Incumbent and Church or Chapel Wardens, or other proper officer or officers of the parish, or other limits of the Benefice or Living, as hereinbefore directed, the Tithes whereof shall have been exchanged, or any thing therein contained shall not be set aside or invalidated or impeached, 40
although

although the ownership or title of the advowson of the Benefice or Living, or of the impropriate Rectory, or of the impropriate Tithes, or any of them, or of any messuages, farms, lands and tenements within the parish, or other limits of the Benefice or Living, or the title of the Incumbent shall have been mistaken, nor for any matter of form only, unless actual fraud shall be proved in the manner in which the Exchange was obtained.

11 GEO. IV.—SESS. 1830.

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B I L L

To enable Rectors, Vicars, and other Incumbents of Ecclesiastical Benefices and Livings in England and Wales, to exchange their Tithes for Corn Rents, by Agreement with the Owners of Lands.

*Ordered, by The House of Commons, to be Printed,
8 February 1830.*

11 May 1830.

391



A

B I L L

To abolish all Fees and Stamp Duties chargeable on the renewal of all Appointments, Commissions, Grants, Pensions, and Patents, consequent on the Demise of the Crown.

Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.

WH ~~HER~~ ~~EA~~ ~~S~~ divers Persons now hold, possess or exercise Pensions, Offices, Places or Employments, Civil or Military, within the United Kingdom of Great Britain and Ireland, Dominion of Wales, Town of Berwick upon Tweed, Isles of Jersey, Guernsey, Alderney, Sark and Man, and also in His Majesty's Foreign Possessions, Colonies or Plantations, during the pleasure of the Crown, which shall or may become void or cease on the demise of His present Majesty; and similar vacancies may accrue on the demise of each of His Majesty's heirs and successors, Kings and Queens of this realm: **AND** whereas many of such Persons may be continued in holding or enjoying such Pensions, Offices, Places or Employments, Civil or Military, after the demise of His present Majesty, or of each of His successors: **AND** whereas divers Fees and Stamp Duties are or may be payable by such Persons so continued in the exercise or enjoyment of such Pensions, Offices, Places or Employments, Civil or Military, by the succeeding Sovereign for the time being; and it is expedient to abolish all such Fees and Stamp Duties on such demise of the Crown; **BE** ~~it~~ **therefore Enacted**, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the

388. Authority

No Fees or
Stamp Duty
to be payable
for the re-
newal of Pen-
sions, Offices,
Places, Em-
ployments,
Privileges or
Rights, on
the demise of
the Crown.

Authority of the same, **THAT** from and after the *passing of this Act*, no Fee or Stamp Duty shall be paid or payable to the Heirs or Successors of His present Majesty, or to any other person or persons whomsoever, for or by reason of any Pension, Commission, Appointment, Grant or Patent for the holding or enjoying, or for or by reason of the continuance in the exercise or enjoyment of any Pension, Office, Place, Employment, Privilege or Right, Civil or Military, by any person or persons who shall be in the exercise or enjoyment of any such Pension, Office, Place, Employment, Privilege or Right, Civil or Military, at the time of the decease of His present Majesty, or of any of His heirs or successors, in any case when such person or persons shall be continued in the exercise or enjoyment of such Pension, Office, Place, Employment, Privilege or Right, Civil or Military, by the succeeding Sovereign, King or Queen, of this realm for the time being.

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11 GEO. IV.—SESS. 1830.

A

B I L L

To abolish all Fees and Stamp Duties charge-
able on the renewal of all Appointments,
Commissions, Grants, Pensions, and Patents,
consequent on the Demise of the Crown.

Ordered, by The House of Commons, to be Printed,

11 May 1830.

17 May 1830.

c 349.



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B I L L

[AS AMENDED BY THE COMMITTEE]

To abolish all Fees and Stamp Duties chargeable on the renewal of all Appointments, Commissions, Grants, Pensions, and Patents, consequent on the Demise of the Crown.

WH ~~HEREAS~~ divers Persons now hold, possess or exercise Pensions, Offices, Places or Employments, Civil or Military, within the United Kingdom of *Great Britain* and *Ireland*, Dominion of *Wales*, Town of *Berwick upon Tweed*, Isles of *Jersey*, *Guernsey*, *Alderney*, *Sark* and *Man*, and also in His Majesty's Foreign Possessions, Colonies or Plantations, during the pleasure of the Crown, by Commission, Letters Patent, Grants, or in any other manner, and which shall or may become void or cease on the demise of His present Majesty; and as similar voidances may accrue on the demise of His Majesty's heirs and successors, Kings and Queens of this realm: **AND** whereas such Persons may be continued in the holding or enjoying such Pensions, Grants, Offices, Places or Employments, Civil or Military, or be re-appointed thereto after the demise of His present Majesty, or His successors: **AND** whereas divers Fees and Stamp Duties are or may be payable by such Persons so continued in the enjoyment of such Pensions and Grants, and in the exercise of such Offices, Places or Employments, Civil or Military, or re-appointed thereto by the succeeding Sovereign for the time being; and it is expedient to abolish the payment of all such Fees and Stamp Duties payable by such Persons so continued in the enjoyment of such Pensions and Grants, or in the exercise of such Offices, Places or Employments, or re-appointed thereto on such demise of the Crown; **BE it therefore Enacted**, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **THAT** from and after the passing of this Act, no Fee or Stamp Duty shall be paid or payable by such Persons to the Heirs or Successors of His present Majesty, or to any other person or persons whomsoever.

Preamble.

No Fees or Stamp Duty to be payable for the renewal of Pensions, Offices, Places, Employments, Privileges or Rights, on the demise of the Crown.

11 GEO. IV.—Sess. 1830.

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B I L L

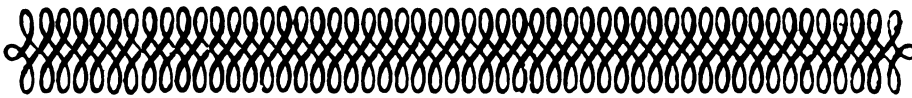
[AS AMENDED BY THE COMMITTEE]

To abolish all Fees and Stamp Duties charge-
able on the renewal of all Appointments,
Commissions, Grants, Pensions, and Patents,
consequent on the Demise of the Crown.

*Ordered, by The House of Commons, to be Printed,
17 May 1830.*

23 June 1830.

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B I L L,

[WITH THE AMENDMENTS MADE BY THE LORDS]

INTITULED,

AN ACT to abolish *certain*⁽¹⁾ Fees and Stamp Duties chargeable on the renewal of all Appointments, Commissions, Grants, Pensions, and Patents, consequent on the Demise of The Crown.

Note.—The Figures in the Margin denote the Number of Presses in the Ingrossment.

N. B.—The Words and Clauses printed in **Black Letter** were left out, and the Words and Clauses printed in *Italics* were added by The Lords.

1 **W**HEREAS ^(*) *it is expedient that such Persons who shall at* Preamble.
the Demise of His present Majesty (whom God long preserve),
or of any of His Successors, possess or enjoy any Office, Employment,
Pension, Rank, or Precedence granted during the Pleasure of the
Crown, and who shall be continued in the Possession or Enjoyment
thereof, should be exempted, as hereinafter provided, from the Payment
of Fees and Stamp Duties in respect of the Re-appointment to any such
Office,

⁽¹⁾ all.

⁽²⁾ *disburs Persons now or hereafter may hold, possess or exercise*
Pensions, Offices, Places or Employments, Civil or Military, within
the United Kingdom of Great Britain and Ireland, Dominion of
Wales, Town of Berwick upon Tweed, Isles of Jersey, Guernsey,
Alberney, Sark, and Man, and also in His Majesty's Foreign Pos-
sessions, Colonies or Plantations, during the pleasure of the Crown,
by Commission, Letters Patent, Grants or in any other manner, and
which shall or may become void or cease on the demise of His present
Majesty; and as similar voidances may accrue on the demise of His
Majesty's Heirs and Successors, Kings and Queens of this Realm:

571.

And

Persons in possession of Office at the Demise of the Crown, and re-appointed thereto, exempted from Fees or Stamp Duties in respect thereof.

Office, or the Re-grant of any such Pension, Rank, or Precedence; BE it therefore Enacted by the KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT⁽¹⁾ every Person who at the Demise of His present Majesty (whom God long preserve), or of any of His Successors, shall possess or enjoy any Office, Employment, Pension, Rank, or Precedence granted during the Pleasure of the Crown, by any Letters Patent, Commission, Warrant, or other Instrument, and shall be continued in the Enjoyment of and be re-appointed to such Office or Employment, or obtain a Regrant of such Pension, Rank, or Precedence, shall be exempted, except as hereinafter provided, from paying to any of His Majesty's Successors, or to any other Person or Persons whomsoever, any Fee, or Stamp Duty, in respect of such Re-appointment or Re-grant.

CLAUSE (A.)
The Treasury to determine the Remuneration to be made for preparing Commissions, &c.

AND whereas it is just and reasonable that the persons whose right and duty it is or may be, by virtue of their respective offices to prepare, make out, settle and attend to the passing of the usual Commissions, Letters Patent, Warrants or other Instruments upon such Re-appointments and Re-grants as aforesaid, should receive a proper and adequate remuneration for the performance of such duty; BE it Enacted, That the Lords Commissioners of His Majesty's Treasury for the time being, shall,

And whereas such Persons may be continued in the holding or enjoying such Pensions, Grants, Offices, Places or Employments, Civil or Military, or be re-appointed thereto after the Demise of His present Majesty, or His Successors: And whereas divers Fees and Stamp Duties are or may be payable by such Persons so continued in the enjoyment of such Pensions and Grants, and in the exercise of such Offices, Places or Employments, Civil or Military, or re-appointed thereto by the succeeding Sovereign for the time being: and it is expedient to abolish the payment of all such Fees and Stamp Duties payable by such Persons so continued in the enjoyment of such Pensions and Grants, or in the exercise of such Offices, Places or Employments, or re-appointed thereto on such demise of the Crown:

(³) from and after the passing of this Act, no such Fee or Stamp Duty shall be paid or payable by such Persons to the Heirs or Successors of His present Majesty, or to any other Person or Persons whomsoever:

And whereas expense will be incurred for Parchment or other materials, and for making out such Commissions, Patents or Grants; Be it further Enacted, That the Commissioners of His Majesty's Treasury shall, and they are hereby empowered and required to determine a reasonable allowance to defray such expense to be so incurred for the renewal of such Commissions, Patents or Grants, and such allowance so determined shall thereupon be paid by the person receiving such Commissions, Patent or Grant.

shall, in all such cases, fix and determine the amount of such remuneration; and that such remuneration shall be paid by the persons who would have been chargeable (if this Act had not passed), with the fees payable upon such Re-appointments or Re-grants as aforesaid.

Provided always, and be it further Enacted, That nothing herein contained shall extend to deprive any person, who at the time of passing this Act shall or may be entitled to any estate of freehold in his office, of any fees or emoluments, to which he would have been by law entitled if this Act had not passed, but that every such person shall be entitled to claim, and shall receive such fees and emoluments, and no other, upon every such Re-appointment and Re-grant, as if this Act had not passed; any thing herein contained to the contrary notwithstanding.

CLAUSE (B.)
Saving of
Rights.

And be it further Enacted, by the Authority aforesaid, That all Commissions heretofore granted or hereafter to be granted, for the taking of affidavits to be made use of and read in any court, or for the taking recognizances of bail, shall, notwithstanding any Demise of the Crown, remain and continue in force during the pleasure of any successor of the Sovereign, by whom the same Commissions may have been or may hereafter be granted, until the same shall be revoked or otherwise avoided.

CLAUSE (C.)
Commissions
for taking
Affidavits
to remain in
force not-
withstanding
Demise of the
Crown.

11 Geo. IV.—Sess. 1830.

A

B I L L,

[WITH THE AMENDMENTS MADE BY THE LORDS]

INTITULED,

AN ACT to abolish *certain* Fees and Stamp
Duties chargeable on the Renewal of all
Appointments, Commissions, Grants, Pen-
sions, and Patents consequent on the Demise
of The Crown.

Ordered, by The House of Commons, to be Printed,
23 June 1830.

12 May 1830.

L. 05



A

B I L L

To amend an Act passed in the Ninth year of His present Majesty, to facilitate Criminal Trials in Scotland, and to grant further facilities in regard to such Trials, and to abridge the period now required between the pronouncing of Sentence and execution thereof, in Cases importing a Capital Punishment.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS an Act was passed in the eleventh year of the reign of King GEORGE the First, intituled, “ An Act for the more effectual disarming the Highlands in that part of Great Britain called Scotland, and for the better securing the peace and quiet of that part of the Kingdom,” by which it is enacted, that no sentence importing a capital punishment pronounced in Edinburgh or in any place to the southward of the Firth or River of Forth shall be put to execution within less than thirty days of the date of such sentence ; and if pronounced in any place to the northward of the said Firth or River, shall be put to execution within less than forty days from the date of such sentence : And whereas it is expedient that the said Act should be amended, and the said periods abridged :

Preamble :
11 Geo. I,
c. 26.

And whereas an Act was passed in the ninth year of the reign of His present Majesty, intituled, “ An Act to authorize additional Circuit Courts of Justiciary to be held, and to facilitate Criminal Trials in Scotland,” which Act requires to be amended in certain points :

9 Geo. IV.
c. 29.

391.

A

And

And whereas it is expedient to afford some additional facilities to such Trials ;

May it therefore please Your MAJESTY,

Provision for
abridging the
period be-
tween passing
a Capital Sen-
tence and the
carrying of it
into execution.

That it may be Enacted, by The KING's most Excellent MAJESTY, by
and with the advice and consent of the Lords Spiritual and Temporal, 5
and Commons, in this present Parliament assembled, and by the
Authority of the same, THAT so much of the said recited Act passed
in the eleventh year of the reign of His Majesty King GEORGE the
First, as prohibits the sentences of the Courts of Judicature importing 10
a Capital Punishment from being put to execution within the periods
therein specified, be repealed ; ~~And it is hereby Enacted~~, THAT from
and after the *First day of July* next after the passing of this Act,
every sentence of any Criminal Court importing a Capital Punishment,
if pronounced in Edinburgh or in any other part of Scotland to the 15
southward of the Firth or River of Forth, shall specify a day for
having the same put to execution, not being less than *Fifteen* days or
more than *Twenty-one* days after the date of such sentence ; and if
pronounced in any place to the northward of the said Firth or River
of Forth, the day to be so specified shall not be less than *Twenty* days
or more than *Twenty-seven* days after the date of such sentence. 20

Spring Circuit
at Glasgow
not to be held
sooner than
20th April.

And be it Enacted, That so long and as often as an additional
Circuit Court shall be held at Glasgow during the recess of the
Court of Session in the end of December and beginning of January,
in terms of the before recited Act passed in the ninth year of the 25
reign of His present Majesty, the immediately succeeding Circuit
Court shall not be held at Glasgow sooner than the *Twentieth* day of
April.

Regulation as
to Criminal
Trials before
Sheriffs.

And be it Enacted, That on the prosecution of Criminal Offences
before Sheriffs of counties according to the summary form provided
by the said last recited Act, the person accused, when first brought 30
before the Sheriff, shall be entitled to demand a copy of the libel
against him, and to require that his trial shall be adjourned for a
space not less than *Forty-eight* hours after such copy of the libel shall
be served upon him : Provided always, That such requisition shall be
made before any witness on the trial shall have been examined ; and 35
provided also, that no such requisition shall be competent where a
copy of the libel shall have been served upon the person accused, at
least *Forty-eight* hours before such trial.

Farther Re-
gulation as to
the same.

And be it Enacted, That no adjournment of the diet in any such
trial shall take place when the person accused pleads not guilty, or
at

at any other stage of the trial, except when required by the person accused, as hereinbefore provided, unless the Sheriff shall see cause to authorize such an adjournment; and it is further provided, that when the declaration of the person accused, or other evidence than parole testimony, shall be adduced on such trial, the giving of the same in evidence shall be marked in the record of the trial.

And be it Enacted, That it shall be lawful for any officer of the law, when lawfully conveying any prisoner to any gaol or before any magistrate, to convey such prisoner through any county adjoining to that over which the magistrate possesses jurisdiction before whom such prisoner is to be carried for examination, or to that in which the gaol is situated to which such prisoner is to be committed.

Provision as to transmission of Prisoners.

And be it Enacted, That it shall be sufficient for the legal citation of any juror or witness in any cause or legal proceeding, civil or criminal, that such citation be given by any officer of the law duly authorized, without witnesses.

Officer may cite Jurors and Witnesses, without Witnesses.

And be it Enacted, That when the attendance of any person shall be required as a witness in any Criminal cause or proceeding before any Court or Magistrate in Scotland, such person, although not residing within the jurisdiction of the Court or Magistrate granting the warrant of citation, may be cited on the warrant of such Court or Magistrate, and this either by a messenger at arms or by an officer of the Court, or Magistrate granting the warrant, or by an officer of the place in which such person may be for the time; and such citation shall be sufficient to compel the attendance of such person as a witness, in all respects as if such person had been resident within the jurisdiction of the Magistrate by whom such warrant shall have been granted; and further, that any sentence or decree for any pecuniary penalty or expenses pronounced by any Court or Magistrate, may be enforced against the person or effects of any party against whom any such sentence or decree shall have been awarded, in any other county as well as in the county where such sentence or decree is pronounced: Provided always, That such sentence or decree, or an extract thereof, shall be first produced to and indorsed by a Court or Magistrate of such other county, competent to have pronounced such sentence or decree in such other county.

Provision as to Citation of Witnesses.

And be it Enacted, That where any person having been convicted of a crime shall have endured the punishment to which such person shall have been sentenced for the same, such person shall not thereafter be deemed by reason of such conviction or sentence an incompetent witness in any court or proceeding, civil or criminal.

Conviction for a Crime not to disqualify a Witness.

Provision as to
remuneration
for making up
County Lists
of Jurors.
6 Geo. IV.
c. 22.

And be it Enacted, That in making up lists of Jurors in terms of an Act passed in the sixth year of the reign of His present Majesty, intituled, " An Act to regulate the qualification and the manner of " inrolling Jurors in Scotland, and of choosing Jurors on Criminal " Trials there, and to unite Counties for the purposes of Trial in " cases of High Treason in Scotland," the sheriffs of counties shall only employ such persons to assist in the discharge of the duty required by said Act as shall be authorized by the Court of Exchequer in Scotland, according to a regulation to be established by that court ; and such person shall not receive any remuneration for the said duty other than such as may be fixed by a Table to be prepared and sanctioned by the Court of Exchequer for that purpose, which Table the Court is hereby required to cause to be prepared and to sanction accordingly.

Provision as
to where Cri-
minal Trials
to be held.

And be it Enacted, That where, from the extent of any burgh or town situated at a distance from the head burgh of a shire, it shall be deemed expedient that trials of persons accused of crimes committed in such burgh or town or in places adjacent thereto, should be there tried, instead of being tried at said head burgh, it shall be lawful for the High Court of Justiciary at Edinburgh, on the application of His Majesty's Advocate, to give all such directions in that behalf as the said Court shall think fit ; and the Sheriff of the county within which such burgh or town may be situated, shall give obedience to all directions so given.

Sheriff of
Argyleshire
may hold
Courts and
grant Warrants
in the Town of
Fort William.

AND whereas from the great resort of persons at the western extremity of the Caledonian Canal, and from the want of local Magistrates in the northern district of Argyleshire, the establishment of a Sheriff's Court for the administration of Justice within such district is required ; AND whereas there is no place in which such Court can conveniently be held, excepting in the town of Fort William, which town is situated in the county of Inverness, but is in the immediate vicinity of the said district of Argyleshire ; BE it Enacted, That it shall be competent to the Sheriff of the county of Argyle and his substitutes, and to all other Magistrates of the county of Argyle, to grant all warrants civil and criminal, and to hold all courts for the trial of all causes civil and criminal, and to pronounce judgment therein, within the town of Fort William, in the same way and to the same effect in all respects as if such warrants were granted and judgments pronounced within the county of Argyle.

11 Geo. IV.—Scss. 1830.

A

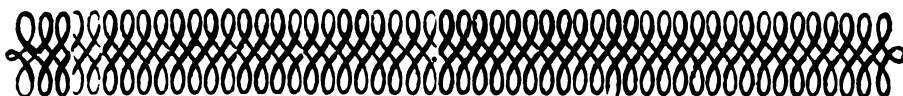
B I L L

To amend an Act passed in the Ninth year of His present Majesty, to facilitate Criminal Trials in Scotland, and to grant further facilities in regard to such Trials, and to abridge the period now required between the pronouncing of Sentence and execution thereof, in Cases importing a Capital Punishment.

*Ordered, by The House of Commons, to be Printed,
12 May 1830.*

3 June 1830.

409



A
B I L L

[AS AMENDED BY THE COMMITTEE]

To amend an Act passed in the Ninth year of His present Majesty, to facilitate Criminal Trials in *Scotland*, and to grant further facilities in regard to such Trials, and to abridge the period now required between the pronouncing of Sentence and execution thereof, in Cases importing a Capital Punishment.

N. B.—*The Clauses marked (A. & B.) and the Schedule, were added by the Committee.*

WHEREAS an Act was passed in the eleventh year of the reign of King GEORGE the First, intituled, "An Act for the more effectual disarming the Highlands in that part of Great Britain called *Scotland*, and for the better securing the peace and quiet of that part of the Kingdom," by which it is enacted, that no sentence importing a capital punishment pronounced in *Edinburgh* or in any place to the southward of the Firth or River of *Forth* shall be put to execution within less than thirty days of the date of such sentence; and if pronounced in any place to the northward of the said Firth or River, shall be put to execution within less than forty days from the date of such sentence: And whereas it is expedient that the said periods should be abridged:

Preamble:
11 Geo. 1,
c. 26.

And whereas an Act was passed in the ninth year of the reign of His present Majesty, intituled, "An Act to authorize additional Circuit Courts of Justiciary to be held, and to facilitate Criminal Trials in *Scotland*," which Act requires to be amended in certain points: And whereas it is expedient to afford some additional facilities in such Trials;

9 Geo. IV.
c. 29.

May it therefore please Your MAJESTY,
That it may be Enacted, ~~And be it Enacted~~ by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT so much of the said recited Act passed in the eleventh year of the reign of His Majesty King GEORGE the First, as prohibits the sentences of the

Provision for
abridging the
period be-
tween pass-
ing a Capital Sen-
tence and the
carrying of it
into execution.

Courts of Judicature importing a Capital Punishment from being put to execution within the periods therein specified, be repealed.

When Sentence of Capital Punishment passed, day to named for carrying into execution.

And be it further Enacted, That from and after the First day of August next after the passing of this Act, every sentence of any Criminal Court importing a Capital Punishment, if pronounced in *Edinburgh* 5 or in any other part of *Scotland* to the southward of the Firth or River of *Forth*, shall specify a day for having the same put to execution, not being less than Fifteen days or more than Twenty-one days after the date of such sentence; and if pronounced in any place to the northward of the said Firth or River of *Forth*, the day to be so 10 specified shall not be less than Twenty days or more than Twenty-seven days after the date of such sentence.

Spring Circuit in certain events not to be held sooner than 20th April.

And be it Enacted, That so long and as often as an additional Circuit Court shall be held at any town in *Scotland* during the recess of the Court of Session in the end of December and beginning of 15 January, in terms of the before recited Act passed in the ninth year of the reign of His present Majesty, the immediately succeeding Circuit Court shall not be held at any such town sooner than the Twentieth day of April.

Regulation as to Criminal Trials before Sheriffs.

And be it Enacted, That on the prosecution of Criminal Offences 20 before Sheriffs of counties according to the summary form provided by the said last recited Act, the person accused, when first brought before the Sheriff, shall be entitled to demand a copy of the libel against him, and to require that his trial shall be adjourned for a space not less than Forty-eight hours after such copy of the libel shall 25 be served upon him: and such requisitions shall thereupon be complied with, provided that the same shall be made before the examination of any witness upon the trial shall have been commenced, and no such requisition shall be competent where a copy of the libel shall have been served upon the person accused, at least Forty-eight hours 30 before such trial.

Farther Regulation as to the same.

And be it Enacted, That no adjournment of the diet in any such trial shall take place when the person accused pleads not guilty, or at any other stage of the trial, except when required by the person accused, as hereinbefore provided, unless the Sheriff shall see cause to 35 authorize such an adjournment; and it is further provided, that when the declaration of the person accused, or other evidence different from parole testimony, shall be adduced on such trial, the giving of the same in evidence shall be marked in the record of the trial.

Provision as to transmission of Prisoners.

And be it Enacted, That it shall be lawful for any officer of the 40 law, when lawfully conveying any prisoner to any gaol or before any magistrate, to convey such prisoner through any county adjoining to that over which the magistrate possesses jurisdiction before whom such prisoner is to be carried for examination, or to that in which the gaol is situated to which such prisoner is to be committed, in the same way in all respects, as if such officer had been an officer of the county through which he may so pass, and as if the warrant under which he is acting had been granted or indorsed by a magistrate of such county.

And

And be it Enacted, That it shall be sufficient for the legal citation of any juror or witness in any cause or legal proceeding, civil or criminal, that such citation be given by any officer of the law duly authorized, without witnesses; and it is hereby provided that the
 5 oath of such officer in support of the execution, shall be held and received as sufficient evidence of such citation, when the same shall be questioned in a court of law.

Officer may cite Jurors and Witnesses, without Witnesses.

And be it Enacted, That when the attendance of any person shall be required as a witness in any Criminal cause or proceeding, or in
 10 any prosecution for a pecuniary penalty before any Court or Magistrate in *Scotland*, such person, although not residing within the jurisdiction of the Court or Magistrate granting the warrant of citation, may be cited on the warrant of such Court or Magistrate, and this either by a messenger at arms or by an officer of the Court,
 15 or Magistrate granting the warrant, or by an officer of the place in which such person may be for the time; and such citation shall be sufficient to enforce the attendance of such person as a witness, in all respects as if such person had been resident within the jurisdiction of the Magistrate by whom such warrant shall have been granted; and further, that any sentence or decree for any pecuniary
 20 penalty or expenses pronounced by any Court or Magistrate, may be enforced against the person or effects of any party against whom any such sentence or decree shall have been awarded, in any other county as well as in the county where such sentence or decree is pronounced: Provided always, That such sentence or decree, or an
 25 extract thereof, shall be first produced to and indorsed by a Court or Magistrate of such other county, competent to have pronounced such sentence or decree in such other county.

Provision as to Citation of Witnesses.

And be it Enacted, That where any person having been convicted
 30 of a crime shall have endured the punishment to which such person shall have been sentenced for the same, such person shall not thereafter be deemed by reason of such conviction or sentence an incompetent witness in any court or proceeding, civil or criminal.

Conviction for a Crime not to disqualify a Witness.

And be it Enacted, That it shall not be competent for any Judge
 35 to pronounce, upon any person convicted, a sentence banishing such person forth of *Scotland*, or forth of any burgh, or district or county of *Scotland*.

CLAUSE (A.) Provision as to Banishment.

And be it Enacted, That in preparing the Return ordered by this Act, and in making up Lists of Jurors in terms of an Act passed in
 40 the sixth year of the reign of His present Majesty, intituled, "An Act to regulate the qualification and the manner of inrolling Jurors in *Scotland*, and of choosing Jurors on Criminal Trials there, and to unite Counties for the purposes of Trial in cases of High Treason in *Scotland*," the sheriffs of counties shall only employ such persons to assist in the discharge of the duty as shall be authorized by the Court of Exchequer in *Scotland*, according to a regulation to be established by that court; and such persons shall not
 489. A 2 receive

Provision as to remuneration for making up County Lists of Jurors. 6 Geo. IV. c. 22.

receive any remuneration for the said duty other than such as may be fixed by a Table to be prepared and sanctioned by the Court of Exchequer for that purpose, which Table the said Court is hereby required to cause to be prepared and to sanction accordingly.

Provision as to where Criminal Trials to be held.

And be it Enacted, That where, from the extent of any burgh or town situated at a distance from the head burgh of a shire, it shall be deemed expedient that trials of persons accused of crimes committed in such burgh or town or in places adjacent thereto, should be there tried, instead of being tried at the said head burgh, it shall be lawful for the High Court of Justiciary at *Edinburgh*, on the application of His Majesty's Advocate, to give all such directions in that behalf as the said Court shall think fit; and the Sheriff of the county within which such burgh or town is situated, shall give obedience to all directions so given. 5 10

Sheriff of Argyleshire may hold Courts and grant Warrants in the Town of Fort William.

AND whereas from the great resort of persons at the western extremity of the *Caledonian* Canal, and from the want of local Magistrates in the northern district of *Argyleshire*, the establishment of a Sheriff's Court for the administration of Justice within such district is required : AND whereas there is no place in which such Court can conveniently be held, excepting in the town of Fort *William*, which town is situated in the county of *Inverness*, but is in the immediate vicinity of the said district of *Argyleshire*; BE it Enacted, That it shall be competent to the Sheriff of the county of *Argyle* and his substitutes, and to all other Magistrates of the county of *Argyle*, to grant all warrants civil and criminal, and to hold all courts for the trial of all causes civil and criminal, and to pronounce judgment therein, within the town of Fort *William*, in the same way and to the same effect in all respects as if such warrants were granted and judgments pronounced within the county of *Argyle*. 15 20 25

CLAUSE (B.)
Sheriffs to make Returns.

And be it Enacted, That the Sheriff of every county in *Scotland* shall, on or before the fifteenth day of January next after the passing of this Act, and on or before the fifteenth day of January of every succeeding year, transmit to His Majesty's Advocate for *Scotland*, a Return, showing the number of persons committed to the several gaols within the jurisdiction of such sheriff, on criminal warrants of detention till liberated in due course of law, in the year ending on the thirty-first day of December immediately preceding; which Return shall show the nature of the crimes and the result of the commitments, according to the Form contained in the Schedule annexed to this Act, but subject to such alterations and additions as may from time to time be ordered and required by one of His Majesty's principal Secretaries of State; and His Majesty's Advocate for *Scotland* is hereby required to prepare from these Returns, under the same heads, a General Return for *Scotland*, distinguishing each county, and on or before the first day of March in each year to cause the same to be transmitted to one of His Majesty's principal Secretaries of State, to be laid before Parliament. 30 35 40

SCHEDULE

in the foregoing

413

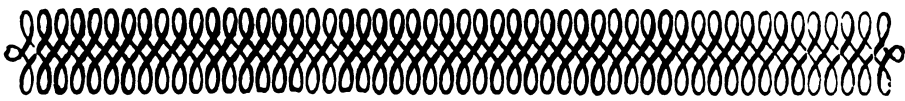
A RETURN

under Warrant, the nature of the Crimes and the result of the Commitments.

| NATURE OF THE CRIME for which Persons were committed FOR TRIAL | Number of Persons Untried. | | | Sentences. | | | | | | | | | | | OBSERVATIONS. | |
|--|-------------------------------|-------------------------------|--|-------------------|---------|---|----|----|----|----|----|----|----|----|---------------|----|
| | Gaol. | On Bail to Stand Trial. | | Number sentenced. | | Other Sentences, describing their Nature. | | | | | | | | | | |
| | | | | Total Number. | N Ex | | | | | | | | | | | |
| | | | | | | M. | F. | M. | F. | M. | F. | M. | F. | M. | | F. |
| MURDER - - | | | | | | | | | | | | | | | | |
| CULPABLE HOMICIDE - - | | | | | | | | | | | | | | | | |
| ROBBERY - - | | | | | | | | | | | | | | | | |
| RAPE - - | | | | | | | | | | | | | | | | |
| WILFUL FIRE-RISING - - | | | | | | | | | | | | | | | | |
| FORGERY, AND UTTERING DOCUMENTS - - | | | | | | | | | | | | | | | | |
| THEFT - - | | | | | | | | | | | | | | | | |
| THEFT, BY HOUSEBREAKING - - | | | | | | | | | | | | | | | | |
| ASSAULT - - | | | | | | | | | | | | | | | | |
| OTHER OFFENCES, which Persons were committed for Trial, specifying thereof respectively | | | | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | | | | |

such Persons were confined as that specified in the Warrant of Commitment, they will be placed in the column of Observations.

11 June 1830.



(Ireland.)

A

B I L L

To explain and amend an Act of the Fifty-fifth Year of King *George* the Third, for the Payment of Costs and Charges to Prosecutors and Witnesses in cases of Felony in *Ireland*.

WH **H**EREBY by an Act passed in the fifty-fifth year of King *George* the Third, intituled, “ An Act for the payment of Costs “ and Charges to Prosecutors and Witnesses in cases of Felony in “ *Ireland*,” provision is made for the payment to persons appearing on
5 recognizance or subpœna to give evidence as to any Felony in *Ireland*, of such sum of money as to the Court before which such person shall appear shall seem reasonable, not exceeding the expenses *bonâ fide* incurred by such person, and also for the payment, under certain circumstances, of compensation to such persons for trouble and loss of time : **AND** whereas
10 doubts have been entertained whether the said Act extends to Prosecutions directed or conducted by or under the direction of His Majesty’s Attorney General in *Ireland*, or other Law Officers of His Majesty ; **BE** it therefore Declared and Enacted, by The KING’s most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual
15 and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the provisions of the said Act shall extend, and shall be deemed and construed to extend, to all cases as well of Prosecutions commenced or carried on by or under the direction of His Majesty’s Attorney General in *Ireland*, or
20 any other Law Officer of His Majesty, as of any other Prosecution whatsoever.

Preamble :
55 Geo. 3.
c. 91.

s. 2. as to ex-
penses of
Witnesses
subpœnaed in
cases of
Felony.

Extended to
Crown Prose-
cutions under
directions of
Attorney
General.

Witnesses
attending and
giving evi-
dence in cases
of Misdemeanor may
be allowed
their
Expenses.

And be it Enacted, That it shall and may be lawful for any Court before which any Witness shall attend and give evidence under any
25 recognizance or subpœna for that purpose in any case of misdemeanor, to order to be paid to such Witness any such sum of money as such Court would be by the said Act authorized to award in cases of Felony, whenever such Court shall think it proper and reasonable so to do ; and such sum shall be raised and paid in the manner by the said Act prescribed in cases of Felony.

11 Geo. IV,—Sess. 1830.

(Ireland.)

A

B I L L

To explain and amend an Act of the Fifty-fifth Year of King *George* the Third, for the Payment of Costs and Charges to Prosecutors and Witnesses in cases of Felony in *Ireland*.

Ordered, by The House of Commons, to be Printed,
11 June 1830.

1 April 1830.

117



A

B I L L

For reducing into one Act all such Forgeries as shall henceforth be punished with Death, and for otherwise amending the Laws relative to Forgery.

[Note.—The words printed in *Italics* are proposed to be inserted in the Committee.]

W ~~H E R E A S~~ several Offences relating to forged Writings and to other forged and counterfeit matters, and to false personation, false oaths, false entries and other false matters, are now by virtue of several Statutes punishable with Death : And whereas it is expedient that none of those offences shall hereafter be punishable with death, unless the same shall be made punishable with death by this Act ; and also that the Statutes concerning such of those offences, whether punishable with death or otherwise, as may more frequently or seriously affect the interests of His Majesty or His subjects, should be amended and consolidated into this Act ; ~~W E~~ *it therefore Enacted*, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT where by any Acts now in force any person falsely making, forging, counterfeiting, erasing or altering any matter whatsoever, or uttering, publishing, offering, disposing of, putting away or making use of any matter whatsoever, knowing the same to be falsely made, forged, counterfeited, erased or altered, or any person demanding or endeavouring to receive or have any thing, or to do or cause to be done any act upon or by virtue of any matter whatsoever, knowing such matter to be falsely made, forged, counterfeited, erased or altered, would, according to the provisions contained in any of the said Acts, be guilty of felony and liable to

Preamble.

No forgeries, or other kindred offences, which are now capital, shall continue so, unless expressly made capital by this Act.

217. A suffer

suffer death as a felon; or where by any Acts now in force any person falsely personating another, or falsely acknowledging any thing in the name of another, or falsely representing any other person than the real party to be such real party, or wilfully making a false entry in any book, account or document, or in any manner wilfully falsifying any part of any book, account or document, or wilfully making a transfer of any stock, annuity or fund, in the name of any person not being the owner thereof, or knowingly taking a false oath, or knowingly making a false affidavit or false affirmation, or demanding or receiving any money or other thing by virtue of any probate or letters of administration, knowing the will on which such probate shall have been obtained to have been false or forged, or knowing such probate or letters of administration to have been obtained by means of any false oath or false affirmation, would, according to the provisions contained in any of the said Acts, be guilty of felony and liable to suffer death as a felon; or where by any Acts now in force any person making or using, or knowingly having in his custody or possession, any frame, mould or instrument for the making of paper with certain words visible in the substance thereof, or any person making such paper, or causing certain words to appear visible in the substance of any paper, would, according to the provisions contained in any of the said Acts, be guilty of felony and liable to suffer death as a felon; then and in each of the several cases aforesaid, if any person shall after the commencement of this Act be convicted of any such felony as is hereinbefore mentioned, or of aiding, abetting, counselling or procuring the commission thereof, such person shall not suffer death for the same, unless the same shall be made punishable with death by this Act; and if the same shall not be punishable with death by this Act, in such case every person who shall, after the commencement of this Act, be convicted of any such felony, or of aiding, abetting, counselling or procuring the commission thereof, shall be liable, at the discretion of the court, to be *transported beyond the seas for life or for any term not less than Seven years*, or to be imprisoned for any term not exceeding *Four* years nor less than *Two* years: Provided always, That nothing herein contained shall affect or alter any Acts relating to the coin of this realm, or to any coin of any other realm lawfully current within this realm.

All forgeries and kindred offences, heretofore capital, and not declared to be capital by this Act, shall be punished with transportation for life, or, &c.

Saving of Acts relating to coin.

Forging the Great Seal, Privy Seal, Privy Signet, Royal Sign Manual, &c. treason and capital. 25 Ed. 3, stat. 5. c. 2. 1 Mary, stat. 2. c. 6. 7 Anne, c. 21. s. 9.

And be it Enacted, That if any person shall forge or counterfeit, or shall utter, knowing the same to be forged or counterfeited, the great seal of the United Kingdom, His Majesty's privy seal, any privy signet of His Majesty, His Majesty's royal sign manual, any of His Majesty's seals appointed by the twenty-fourth article of the Union to be kept used and continued in Scotland, the great seal of Ireland or the privy seal of Ireland, every such offender shall be guilty of *High Treason*, and shall suffer death accordingly: Provided always, That nothing contained in an Act passed in the seventh year of the reign of King

King William the Third, intituled, " An Act for regulating of Trials in
 " cases of Treason and Misprision of Treason," or in an Act passed in
 the seventh year of the reign of Queen Anne, intituled, " An Act for
 " improving the Union of the two Kingdoms," shall extend to any
 5 indictment, or to any proceedings thereupon, for any of the treasons
 hereinbefore mentioned.

And be it Enacted, That if any person shall forge or alter, or shall
 offer, utter, dispose of or put off, knowing the same to be forged or
 altered, any Exchequer bill or Exchequer debenture, or any indorse-
 10 ment on or assignment of any Exchequer bill or Exchequer debenture ;
 or any bond under the common seal of the United Company of Mer-
 chants of England trading to the East Indies, commonly called an
 East India bond, or any indorsement on or assignment of any East
 India bond ; or any note or bill of exchange of the Governor and
 15 Company of the Bank of England, commonly called a bank note,
 a bank bill of exchange or a bank post bill, or any indorsement on or
 assignment of any bank note, bank bill of exchange or bank post bill ;
 or any will, testament, codicil or testamentary writing ; or any bill of
 exchange, or any promissory note for the payment of money, or any
 20 indorsement on or assignment of any bill of exchange or promissory
 note for the payment of money, or any acceptance of any bill of
 exchange, or any undertaking warrant or order for the payment of
 money ; with intent in any of the cases aforesaid to defraud any person
 whatsoever, every such offender shall be guilty of *Felony*, and being
 25 convicted thereof shall suffer *Death as a felon*.

Forging an Exche-
 quer bill or Exche-
 quer debenture,
 East India Bond,
 bank note, will, bill
 of exchange, prom-
 issory note, or
 warrant or order for
 payment of money ;
 capital.
 48 Geo. 3. c. 1. s. 9.
 53 Geo. 3. c. 41.
 s. 26. &c.
 12 Geo. 1. c. 32. s. 9.
 45 Geo. 3. c. 89.
 s. 1 & 2.
 which supersedes
 2 Geo. 2. c. 25. s. 1.
 7 Geo. 2. c. 22.
 31 Geo. 2. c. 22. s. 78.
 18 Geo. 3. c. 18.

And be it Declared and Enacted, That where by any Act now in
 force any person is made liable to the punishment of death for forging
 or altering, or for offering, uttering, disposing of or putting off, knowing
 the same to be forged or altered, any instrument or writing designated
 30 in such Act by any special name or description, and such instrument
 or writing, however designated, is in law a will, testament, codicil or tes-
 tamentary writing, or a bill of exchange or a promissory note for the
 payment of money, or an indorsement on or assignment of a bill of
 exchange or promissory note for the payment of money, or an acceptance
 35 of a bill of exchange, or an undertaking warrant or order for the payment
 of money, within the true intent and meaning of this Act, in every such
 case the person forging or altering such instrument or writing, or offering,
 uttering, disposing of or putting off such instrument or writing, knowing
 the same to be forged or altered, may be indicted as an offender against
 40 this Act, and punished with *Death* accordingly.

If any instrument,
 however designated
 in any other Act,
 be in law a will, bill
 of exchange, prom-
 issory note, or a
 warrant or order for
 payment of money,
 within this Act, the
 forgery of such in-
 strument may be
 indicted under this
 Act.

And be it Enacted, That if any person shall wilfully make any false
 entry in or wilfully alter any word or figure in any of the books of
 account kept by the Governor and Company of the Bank of
 217. A 2 England,

Making false entries
 in the books in
 which the accounts
 of public stock are
 kept ; making a
 transfer of any public

stock in any other name than the true owner's, capital; 33 Geo. 3. c. 30. s. 1. & 3.

England, or by the Governor and Company of Merchants of Great Britain trading to the South Seas and other parts of America, and for encouraging the fishery, commonly called the South Sea Company, in which books the accounts of the owners of any stock, annuities or other public funds which now are or hereafter may be transferrable at the Bank of England or at the South Sea House, shall be entered and kept, or shall in any manner wilfully falsify the accounts of such owners in any of the said books, with intent in any of the cases aforesaid to defraud any person whatsoever; or if any person shall wilfully make any transfer of any share or interest of or in any stock, annuity or other public fund which now is or hereafter may be transferrable at the Bank of England or at the South Sea House, in the name of any person not being the true and lawful owner of such share or interest, with intent to defraud any person whatsoever; every such offender shall be guilty of *Felony*, and being convicted thereof shall suffer *Death as a felon*. 5 10 15

Forging a transfer of any public stock or of certain other stock; forging a power of attorney to transfer the same, or to receive dividends thereon; transfer of stock or receipt of dividends by false personation; capital. 33 Geo. 3. c. 30. s. 2. 8 Geo. 1. c. 22. s. 1. 31 Geo. 2. c. 22. s. 77. 4 Geo. 3. c. 25. s. 15.

And be it Enacted, That if any person shall forge or alter, or shall utter, knowing the same to be forged or altered, any transfer of any share or interest of or in any stock, annuity or other public fund which now is or hereafter may be transferrable at the Bank of England or at the South Sea House, or of or in the capital stock of any body corporate, company or society which now is or hereafter may be established by charter or Act of Parliament; or shall forge or alter, or shall utter, knowing the same to be forged or altered, any power of attorney or other authority to transfer any share or interest of or in any such stock, annuity, public fund or capital stock as is hereinbefore mentioned, or to receive any dividend payable in respect of any such share or interest, or shall demand or endeavour to have any such share or interest transferred, or to receive any dividend payable in respect thereof, by virtue of any such forged or altered power of attorney or other authority, knowing the same to be forged or altered, with intent in any of the several cases aforesaid to defraud any person whatsoever; or if any person shall falsely and deceitfully personate any owner of any such share, interest or dividend as aforesaid, and thereby transfer such share or interest, or thereby receive the money due to such owner as if such person were the true and lawful owner; every such offender shall be guilty of *Felony*, and being convicted thereof shall suffer *Death as a felon*. 20 25 30 35

Personating the owner of any public stock, or certain other stock, and endeavouring to transfer or to receive the dividends; transportation, &c. 4 Geo. 3. c. 25. s. 15. now capital.

And be it Enacted, That if any person shall falsely and deceitfully personate any owner of any share or interest of or in any stock, annuity or other public fund which now is or hereafter may be transferrable at the Bank of England or at the South Sea House, or any owner of any share or interest of or in the capital stock of any body corporate company or society which now is or hereafter may be established by charter or 40

or Act of Parliament, or any owner of any dividend payable in respect of any such share or interest as aforesaid, and shall thereby endeavour to transfer any such share or interest, or thereby endeavour to receive the money due to any such owner as if such offender were the true and lawful owner, every such offender shall be guilty of *Felony*, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for *Life*, or for any term not less than *Seven* years, or to be imprisoned for any term not exceeding *Four* years nor less than *Two* years.

- 10 And be it Enacted, That if any person shall forge the name or handwriting of any person as or purporting to be a witness attesting the execution of any power of attorney or other authority to transfer any share or interest of or in any such stock, annuity, public fund or capital stock as is hereinbefore mentioned, or to receive any dividend
15 payable in respect of any such share or interest, or shall utter any such power of attorney or other authority with the name or handwriting of any person forged thereon as an attesting witness, knowing the same to be forged, every such offender shall be guilty of *Felony*, and being convicted thereof shall be liable, at the discretion of the court, to be
20 transported beyond the seas for the term of *Seven* years, or to be imprisoned for any term not exceeding *Two* years nor less than *One* year.

Forging the attestation to any power of attorney for transfer of stock, &c. felony, transportation for seven years, &c.
37 Geo. 3 c. 122.

- And be it Enacted, That if any clerk, officer, or servant of, or other person employed or intrusted by the Governor and Company of the Bank of England, or the Governor and Company of Merchants commonly
25 called the South Sea Company, shall knowingly make out or deliver any dividend warrant for a greater or less amount than the person or persons on whose behalf such dividend warrant shall be made out is or are entitled to, with intent to defraud any person whatsoever, every such offender shall be guilty of *Felony*, and being convicted thereof shall be
30 liable, at the discretion of the court, to be transported beyond the seas for the term of *Seven* years, or to be imprisoned for any term not exceeding *Two* years nor less than *One* year.

Clerks of the Bank wilfully making out dividend warrants for a greater or less sum than what is really due, shall be transported for seven years, or, &c.
33 Geo. 3. c. 30. s. 4.

- And be it Enacted, That if any person shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or
35 altered, any deed, bond, or writing obligatory, or any acquittance or receipt either for money or goods, or any accountable receipt either for money or goods, or for any note, bill or other security for payment of money, or any warrant, order or request for the delivery of goods, or for the delivery of any note, bill or other security for payment of money, with intent to defraud any person whatsoever, every such offender shall be guilty of *Felony*, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas

Forging a deed, bond, receipt for money or goods, or an accountable receipt, or an order for delivery of goods, felony, transportation for life, or, &c.
45 Geo. 3. c. 89. s. 1. now capital.

for *Life*, or for any term not less than *Seven* years, or to be imprisoned for any term not exceeding *Four* years nor less than *Two* years.

Fraudulently acknowledging any recognizance, bail, fine, recovery or judgment, in the name of another, shall be felony, transportation for life, &c.

21 Jac. 1. c. 26.

4 W. & M. c. 4. s. 4.

27 Geo. 3. c. 43. s. 4. now capital.

And be it Enacted, That if any person shall, before any court, judge or other person lawfully authorized to take any recognizance or bail, acknowledge any recognizance or bail in the name of any other person not privy or consenting to the same, whether such recognizance or bail in either case be or be not filed; or if any person shall, in the name of any other person not privy or consenting to the same, acknowledge any fine, recovery, cognovit actionem or judgment, or any deed to be inrolled; every such offender shall be guilty of *Felony*, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for *Life*, or for any term not less than *Seven* years, or to be imprisoned for any term not exceeding *Four* years nor less than *Two* years.

Knowingly purchasing or receiving forged Bank notes, or having them in possession, Felony; transportation for fourteen years.

45 Geo. 3. c. 89. s. 6.

which supersedes

41 Geo. 3. c. 39. s. 5.

And be it Enacted, That if any person shall without lawful excuse, the proof whereof shall lie upon the party accused, purchase or receive from any other person, or have in his custody or possession, any forged bank note, bank bill of exchange or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, knowing the same respectively to be forged, every such offender shall be guilty of *Felony*, and being convicted thereof shall be transported beyond the seas for the term of *Fourteen* years.

If any person, without authority from the Bank of England, shall make or have in his possession any mould for making paper with the words "Bank of England" visible in the substance of the paper, or for making paper with curved bar lines, or with any number or sum expressed in words in roman letters visible in the substance of the paper, &c., or shall sell such paper, &c., he shall be transported for fourteen years. Now capital as to the words "Bank of England," by 13 Geo. 3. c. 79. and see, as to the residue, 45 Geo. 3. c. 89. s. 3.

And be it Enacted, That if any person shall without an authority for that purpose from the Governor and Company of the Bank of England, to be proved by the party accused, make or use, or shall without lawful excuse, to be proved by the party accused, knowingly have in his custody or possession any frame mould or instrument for the making of paper with the words "Bank of England" visible in the substance of such paper, or for the making of paper with curved or waiving bar lines, or with the laying wire lines thereof in a waving or curved shape, or with any number sum or amount expressed in a word or words in roman letters, visible in the substance of such paper; or if any person shall without such authority, to be proved as aforesaid, manufacture, use, sell, expose to sale, utter or dispose of, or shall without lawful excuse, to be proved as aforesaid, knowingly have in his custody or possession any paper whatsoever with the words "Bank of England" visible in the substance of such paper, or any paper with curved or waiving bar lines, or with the laying wire lines thereof in a waiving or curved shape, or with any number sum or amount expressed in a word or words in roman letters appearing visible in the substance of such paper; or if any person without such authority, to be proved as aforesaid, shall by any art or contrivance cause the words "Bank of England" to appear visible in the substance

substance of any paper, or cause the numerical sum or amount of any bank note, bank bill of exchange or bank post bill, blank bank note, blank bank bill of exchange, or blank bank post bill, in a word or words in roman letters, to appear visible in the substance of the paper whereon the same shall be written or printed ; every such offender shall be guilty of *Felony*, and being convicted thereof shall be transported beyond the seas for the term of *Fourteen* years.

Provided always, and be it Enacted, That nothing herein contained shall prevent any person from issuing any bill of exchange or promissory note having the amount thereof expressed in guineas, or in a numerical figure or figures denoting the amount thereof in pounds sterling, appearing visible in the substance of the paper upon which the same shall be written or printed ; nor shall prevent any person from making using or selling any paper having waiving or curved lines, or any other devices in the nature of watermarks, visible in the substance of the paper, not being bar lines or laying wire lines, provided the same are not so contrived as to form the groundwork or texture of the paper, or to resemble the waiving or curved laying wire lines or bar lines or the watermarks of the paper used by the Governor and Company of the Bank of England.

Proviso.
45 Geo. 3. c. 89.
s. 4 & 5.

And be it Enacted, That if any person shall engrave or in anywise make upon any plate whatever, or upon any wood, stone or other material, any promissory note or bill of exchange, or blank promissory note or blank bill of exchange, or part of a promissory note or bill of exchange, purporting to be a bank note, bank bill of exchange, or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, or part of a bank note, bank bill of exchange, or bank post bill, without an authority for that purpose from the Governor and Company of the Bank of England, to be proved by the party accused ; or if any person shall use such plate, wood, stone or other material, or any other instrument or device, for the making or printing any bank note, bank bill of exchange, or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, or part of a bank note, bank bill of exchange, or bank post bill, without such authority to be proved as aforesaid ; or if any person shall without lawful excuse, the proof whereof shall lie on the party accused, knowingly have in his custody or possession any such plate, wood, stone or other material, or any such instrument or device ; or if any person shall without such authority, to be proved as aforesaid, knowingly offer, utter, dispose of or put off any paper upon which any blank bank note, blank bank bill of exchange, or blank bank post bill, or part of a bank note, bank bill of exchange, or bank post bill, shall be made or printed ; or if any person shall without lawful excuse, to be proved as aforesaid, knowingly have in his custody or possession any such paper ; every such offender shall be guilty of

If any person without authority from the Bank of England, shall engrave, &c. on any plate, &c. any bank note, blank bank note, or part of a bank note, or shall use such plate, or shall have in his possession such plate, &c. or shall utter any paper upon which a blank bank note, &c. shall be printed, or shall have in his possession such paper, felony ; transportation for fourteen years.
45 Geo. 3. c. 89. s. 7.
which supersedes
41 Geo. 3. c. 39. s. 6.

Felony, and being convicted thereof shall be transported beyond the seas for the term of *Fourteen* years.

If any person, without authority from the Bank of England, shall engrave, &c. on any plate, &c. any word, number or ornament resembling any part of a bank note, &c. or shall use any such plate, &c. or shall knowingly have in his possession such plate, &c. or shall utter any paper on which there shall be an impression of any word, number, &c. or shall knowingly have in his possession any such paper, felony; transportation for fourteen years.

52 Geo. 3. c. 79. s. 2. which supersedes 13 Geo. 3. c. 79. s. 2. and see 1 Geo. 4. c. 92.

And be it further Enacted, That if any person shall engrave or in any-wise make upon any plate whatever, or upon any wood, stone or other material, any word, number, figure, character or ornament, the impres- 5
sion taken from which shall resemble, or apparently be intended to resemble, any part of a bank note, bank bill of exchange or bank post bill, without an authority for that purpose from the Governor and Company of the Bank of England, to be proved by the party accused; or if any person shall use any such plate, wood, stone or other mate- 10
rial, or any other instrument or device, for the making upon any paper or other material the impression of any word, number, figure, character or ornament which shall resemble, or apparently be intended to resemble, any part of a bank note, bank bill of exchange or bank post bill, without such authority to be proved as aforesaid; or if any per- 15
son shall without lawful excuse, the proof whereof shall lie on the party accused, knowingly have in his custody or possession any such plate, wood, stone or other material, or any such instrument or device; or if any person shall without such authority, to be proved as afore-
said, knowingly offer, utter, dispose of or put off any paper or other 20
material upon which there shall be an impression of any such matter as aforesaid; or if any person shall without lawful excuse, to be proved as aforesaid, knowingly have in his custody or possession any paper or other material upon which there shall be an impression of any such matter as aforesaid; every such offender shall be guilty of *Felony*, and 25
being convicted thereof shall be transported beyond the seas for the term of *Fourteen* years.

Making, without lawful authority, any mould for manufacturing paper, with the name of any bankers appearing in the substance of the paper, having such mould in possession, manufacturing, &c. or having such paper in possession, or causing the name to appear in the substance of the paper, felony; transportation for fourteen years, or, &c. 41 Geo. 3. c. 57. s. 1.

And be it further Enacted, That if any person shall make or use any frame mould or instrument for the manufacture of paper with the name or firm of any person or persons, body corporate or company, carrying on 30
the business of bankers (other than and except the Bank of England) appearing visible in the substance of the paper, without the authority of such person or persons, body corporate or company, the proof of which authority shall lie on the party accused; or if any person shall without lawful excuse, the proof whereof shall lie on the party accused, 35
knowingly have in his custody or possession any such frame mould or instrument; or if any person shall, without such authority, to be proved as aforesaid, manufacture, use, sell, expose to sale, utter or dispose of, or shall without lawful excuse, to be proved as aforesaid, knowingly have in his custody or possession any paper, in the substance of which 40
the name or firm of any such person or persons, body corporate or company carrying on the business of bankers, shall appear visible; or if any person shall without such authority, to be proved as aforesaid, cause the name or firm of any such person or persons, body corporate or
or

or company carrying on the business of bankers to appear visible in the substance of the paper upon which the same shall be written or printed; every such offender shall be guilty of *Felony*, and being convicted thereof shall be liable, at the discretion of the court, to be transported
 5 beyond the seas for any term not exceeding *Fourteen* years nor less than *Seven* years, or to be imprisoned for any term not exceeding *Three* years nor less than *One* year.

And be it Enacted, That if any person shall engrave or in anywise
 10 make upon any plate whatever, or upon any wood stone or other material, any bill of exchange or promissory note for the payment of money, or any part of any bill of exchange or promissory note for the payment of money, purporting to be the bill or note, or part of the bill or note of any person or persons, body corporate or company carrying on the business of bankers (other than and except the Bank of England)
 15 without the authority of such person or persons, body corporate or company, the proof of which authority shall lie on the party accused; or if any person shall engrave or make upon any plate whatever, or upon any wood stone or other material, any word or words resembling or apparently intended to resemble any subscription subjoined to any bill
 20 of exchange or promissory note for the payment of money issued by any such person or persons, body corporate or company carrying on the business of bankers, without such authority, to be proved as aforesaid; or if any person shall without such authority, to be proved as aforesaid, use, or shall without lawful excuse, to be proved by the party accused,
 25 knowingly have in his custody or possession, any plate, wood, stone or other material upon which any such bill or note or part thereof, or any word or words resembling or apparently intended to resemble such subscription, shall be engraved or made; or if any person shall without such authority, to be proved as aforesaid, knowingly offer, utter,
 30 dispose of or put off, or shall without lawful excuse, to be proved as aforesaid, knowingly have in his custody or possession, any paper upon which any part of such bill or note, or any word or words resembling or apparently intended to resemble any such subscription, shall be made or printed; every such offender shall be guilty of *Felony*, and being
 35 convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding *Fourteen* years nor less than *Seven* years, or to be imprisoned for any term not exceeding *Three* years nor less than *One* year.

If any person, without authority, shall engrave, &c. on any plate, &c. any bill of exchange or promissory note of any bankers, or any words resembling the subscription subjoined thereto, or shall use any such plate, or shall utter or have in possession any paper upon which any part of any such bill or note, or any such subscription shall be printed, felony; transportation for fourteen years, or, &c. 41 Geo. 3. c. 57. s. 2 & 3.

And be it Enacted, That if any person shall engrave or in anywise
 40 make upon any plate whatever, or upon any wood stone or other material, any bill of exchange, promissory note, undertaking or order for payment of money, or any part of any bill of exchange, promissory note, undertaking or order for payment of money, in whatever language or languages the same may be expressed, and whether the same shall or

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shall

Engraving plates, &c. for foreign bills or notes; using or having possession of such plates; uttering or having possession of any paper on which any part of such foreign bill or note may be printed, felony; transportation for 14 years, or, &c. 43 Geo. 3. c. 139. s. 2.

shall not be or be intended to be under seal, purporting to be the bill, note, undertaking or order, or part of the bill, note, undertaking or order, of any foreign prince or state, or of any minister or officer in the service of any foreign prince or state, or of any body corporate or body of the like nature constituted or recognized by any foreign prince or state, or of any person or company of persons resident in any country not under the dominion of His Majesty, without an authority for that purpose from such foreign prince or state, minister or officer, body corporate or body of the like nature, person or company of persons, the proof of which authority shall lie on the party accused; or if any person shall without such authority, to be proved as aforesaid, use, or shall without lawful excuse, to be proved by the party accused, knowingly have in his custody or possession any plate, stone, wood or other material upon which any such foreign bill, note, undertaking or order, or any part thereof, shall be engraved or made; or if any person shall without such authority, to be proved as aforesaid, knowingly offer, utter, dispose of or put off, or shall without lawful excuse, to be proved as aforesaid, knowingly have in his custody or possession any paper upon which any part of such foreign bill, note, undertaking or order shall be made or printed; every such offender shall be guilty of *Felony*, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding *Fourteen* years nor less than *Seven* years, or to be imprisoned for any term not exceeding *Three* years nor less than *One* year.

Inserting any false entry in any register of baptisms, marriages, or burials; forging or altering any such entry; uttering any false or forged entry; destroying, &c. the register; forging any license of marriage, felony; transportation for life, or, &c.

52 Geo. 3. c. 146.
s. 14.
4 Geo. 4. c. 76. s. 29.

And be it Enacted, That if any person shall knowingly and wilfully insert or cause or permit to be inserted in any register of baptisms, marriages or burials, which hath been or shall be made or kept by the rector, vicar, curate or officiating minister of any parish, district-parish or chapelry in England, any false entry of any matter relating to any baptism marriage or burial; or shall forge or alter any entry of any matter relating to any baptism marriage or burial in any such register; or shall utter any entry in any such register of any matter relating to any baptism marriage or burial, knowing such entry to be false, forged or altered, or shall utter any copy of such entry knowing such entry to be false, forged or altered; or shall wilfully destroy deface or injure, or cause or permit to be destroyed defaced or injured, any such register or any part thereof; or shall forge or alter, or shall utter knowing the same to be forged or altered, any license of marriage; every such offender shall be guilty of *Felony*, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for *Life* or for any term not less than *Seven* years, or to be imprisoned for any term not exceeding *Four* years nor less than *Two* years.

Rector, &c. not liable to any penalty for correcting, in the mode prescribed,

Provided always, and be it Enacted, That no rector, vicar, curate or officiating minister of any parish, district-parish or chapelry, who shall discover

discover any error in the form or substance of the entry in the register of any baptism marriage or burial respectively by him solemnized, shall be liable to any of the penalties herein mentioned if he shall within one calendar month after the discovery of such error, in the presence of the parent or parents of the child baptized, or of the parties married, or in the presence of two persons who shall have attended at any burial, or in the case of the death or absence of the respective parties aforesaid, then in the presence of the churchwarden or chapelwarden, correct the entry which shall have been found erroneous, according to the truth of the case, by entry in the margin of the register wherein such erroneous entry shall have been made, without any alteration or obliteration of the original entry, and shall sign such entry in the margin, and add to such signature the day of the month and year when such correction shall be made; and such correction and signature shall be attested by the parties in whose presence the same are directed to be made as aforesaid: Provided also, That in the copy of the register which shall be transmitted to the registrar of the diocese, the said rector, vicar, curate or officiating minister shall certify the corrections so made by him as aforesaid.

accidental errors in the register.
52 Geo. 3. c. 146.
s. 15.

AND whereas copies of the registers of baptisms marriages and burials, such copies being signed and verified by the written declaration of the rector, vicar, curate or officiating minister of every parish, district-parish and chapelry in England, where the ceremonies of baptism, marriage and burial may lawfully be performed, are directed by law to be made and transmitted to the registrar of the diocese within which such parish, district-parish or chapelry may be situated; BE it therefore Enacted, That if any person shall knowingly and wilfully insert or cause or permit to be inserted in any copy of any register so directed to be transmitted as aforesaid, any false entry of any matter relating to any baptism, marriage or burial, or shall forge or alter, or shall utter, knowing the same to be forged or altered, any copy of any register so directed to be transmitted as aforesaid, or shall knowingly and wilfully sign or verify any copy of any register so directed to be transmitted as aforesaid, which copy shall be false in any part thereof, knowing the same to be false, every such offender shall be guilty of *Felony*, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for the term of *Seven* years, or to be imprisoned for any term not exceeding *Two* years nor less than *One* year.

Inserting in any copy of a register of baptisms, marriages or burials, transmitted to the Registrar, any false entry; forging any such copy, or signing and verifying any such copy, knowing it to be false, felony; transportation for seven years, or, &c.
52 G. 3. c. 146. s. 14.

AND whereas by an Act passed in the fifth year of the reign of Queen Elizabeth, intituled, "An Act against Forgers of false Deeds and Writings," it is amongst other things provided, that every person convicted of any of the offences first enumerated in that Act, shall pay to the party grieved his double costs and damages, and shall forfeit to the Crown the whole issues of his lands and tenements during his life,

Repeal of the punishments of 5 Eliz. c. 14. so far as they are adopted by other Acts, viz. 2 & 3 Ann. c. 4. s. 19. 5 Ann. c. 18. s. 8. 6 Ann. c. 35. s. 26. 7 Ann. c. 20. s. 15. 8 Geo. 2. c. 6. s. 31. Acts relating to the registration of conveyances in Yorkshire and Middlesex.

and shall also suffer imprisonment during his life : AND whereas by an Act passed in the second and third years of the reign of Queen Anne, for the public registering of all deeds, conveyances and wills of any honors, manors, lands, tenements or hereditaments within the West Riding of the county of York ; and also by another Act, passed in the fifth year of the same reign, for inrolments of bargains and sales within the West Riding of the county of York ; and also by another Act, passed in the sixth year of the same reign, for the public registering of all deeds, conveyances, wills and other incumbrances that shall be made of or that may affect any honors, manors, lands, tenements or hereditaments within the East Riding of the county of York or the town and county of the town of Kingston-upon-Hull ; and also by another Act, passed in the seventh year of the same reign, for the like purpose with regard to any honors, manors, lands, tenements or hereditaments within the county of Middlesex ; and also by another Act, made in the eighth year of the reign of King George the Second, for the like purpose with regard to any honors, manors, lands, tenements or hereditaments within the North Riding of the county of York, persons convicted of certain offences mentioned in each of the said Acts respectively are subjected to the same pains and penalties as are imposed by the said Act of Queen Elizabeth for the offences first enumerated in that Act : AND whereas the said Act of Elizabeth is hereinafter repealed ; and it is expedient to substitute other punishments in lieu of the punishments of that Act, so far as the same have been adopted by each of the several Acts hereinbefore mentioned ; BE it therefore Enacted, That every person who shall, after the commencement of this Act, be convicted of any offence which is now subjected, by any of the several Acts hereinbefore mentioned, to the same pains and penalties as are imposed by the said Act of Queen Elizabeth for any of the offences first enumerated in that Act, shall be guilty of *Felony*, and shall in lieu of such pains and penalties be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding *Fourteen* years nor less than *Seven* years, or to be imprisoned for any term not exceeding *Three* years nor less than *One* year.

All forgers and utterers may be tried in the county where they are apprehended or are in custody.

And be it Enacted, That if any person shall commit any offence against this Act, or shall commit any offence of forging or altering any matter whatsoever, or of offering, uttering, disposing of or putting off any matter whatsoever, knowing the same to be forged or altered, whether the offence in any such case shall be indictable at common law or by virtue of any statute or statutes made or to be made, the offence of every such offender may be dealt with, indicted, tried and punished, and laid and charged to have been committed in any county or place in which he shall be apprehended or be in custody, as if his offence had been actually committed in that county or place ; and every accessory before or after the fact to any such offence, if the same be a felony, and

and every person aiding abetting or counselling the commission of any such offence, if the same be a misdemeanor, may be tried in any county or place in which the principal offender may be tried.

5 And be it Enacted, That in the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable with death, or otherwise, in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act shall, on conviction, be liable to be imprisoned for any
10 term not exceeding *Two* years.

As to principals in the second degree and accessories to offences against this Act.

And be it Enacted, That where any person shall be convicted of any offence punishable under this Act, for which imprisonment may be awarded, it shall be lawful for the court to sentence the offender to be imprisoned, with or without hard labour, in the common gaol or house
15 of correction, and also to direct that the offender shall be kept in solitary confinement for the whole or any portion or portions of such imprisonment, as to the court in its discretion shall seem meet.

The court may order hard labour or solitary confinement for offences against this Act.

And be it Enacted, That where any offence punishable under this Act shall be committed within the jurisdiction of the Admiralty, the same
20 shall be dealt with, inquired of, tried and determined in the same manner as any other offence committed within that jurisdiction.

As to offences against this Act committed at sea.

And be it Declared and Enacted, That where the having any matter in the custody or possession of any person is in this Act expressed to be an offence, if any person shall have any such matter in his personal
25 custody or possession, or shall knowingly and wilfully have any such matter in any dwelling-house or other building, lodging, apartment, field or other place, open or enclosed, whether belonging to or occupied by himself or not, and whether such matter shall be so had for his own use or for the use or benefit of another, every such person shall be
30 deemed and taken to have such matter in his custody or possession within the meaning of this Act; and where the committing any offence with intent to defraud any person whatsoever is made punishable by this Act, in every such case the word "person" shall throughout this Act be deemed to include His Majesty, or any foreign prince or state,
35 or any body corporate, or any company or society of persons not incorporated, or any person or number of persons whatsoever who may be intended to be defrauded by such offence, whether such body corporate, company, society, person or number of persons shall reside or carry on business in England or elsewhere, in any place or country, whether under the dominion of His Majesty or not; and it shall be sufficient in any indictment to name one person only of such company, society or number of persons, and to allege the offence to have been committed with
C intent
217.

Rule of interpretation as to criminal possession, and as to parties intended to be defrauded. See 7 & 8 Geo. 4. c. 28, s. 14. 7 Geo. 4. c. 64. s. 14.

intent to defraud the person so named, and another or others, as the case may be.

This Act not to extend to Scotland or Ireland;

And be it Enacted, That this Act shall not extend to any offence committed in Scotland or Ireland.

But to apply to the forging or uttering in England documents purporting to be made, or actually made, out of England;

and to the forging or uttering in England bills of exchange, promissory notes, bonds, &c. purporting to be payable out of England.

Provided always, and be it Declared and Enacted, That where the 5
forging or altering any writing or matter whatsoever, or the offering, uttering, disposing of, or putting off any writing or matter whatsoever, knowing the same to be forged or altered, is in this Act expressed to be an offence, if any person shall, in that part of the United Kingdom called England, forge or alter, or offer, utter, dispose of, or put off, 10
knowing the same to be forged or altered, any such writing or matter, in whatsoever place or country out of England, whether under the dominion of His Majesty or not, such writing or matter may purport to be made or may have been made, and in whatever language or languages the same or any part thereof may be expressed, every such 15
person, and every person aiding, abetting or counselling such person, shall be deemed to be an offender within the meaning of this Act, and shall be punishable thereby in the same manner as if the writing or matter had purported to be made or had been made in England; and if any person shall in England forge or alter, or offer, utter, dispose of, 20
or put off, knowing the same to be forged or altered, any bill of exchange, or any promissory note for the payment of money, or any indorsement on or assignment of any bill of exchange or promissory note for the payment of money, or any acceptance of any bill of exchange, or any undertaking, warrant, or order for the payment of money, or any 25
deed, bond, or writing obligatory for the payment of money (whether the same shall be made only for the payment of money, or for the payment of money together with some other purpose,) in whatever place or country out of England, whether under the dominion of His Majesty or not, the money payable or secured by such bill, note, under- 30
taking, warrant, order, deed, bond or writing obligatory, may be or may purport to be payable, and in whatever language or languages the same respectively or any part thereof may be expressed, and whether such bill, note, undertaking, warrant, or order be or be not under seal, every such person, and every person aiding abetting or counselling 35
such person, shall be deemed to be an offender within the meaning of this Act, and shall be punishable thereby in the same manner as if the money had been payable or had purported to be payable in England.

Repeal of
25 Edw. 3. stat. 5. c. 2.

1 Mary, stat. 2. c. 6.

And be it Enacted, That so much of a Statute made in the twenty- 40
fifth year of the reign of King Edward the Third, as relates to counterfeiting the King's great or privy seal; and so much of an Act passed in the first year of the reign of Queen Mary, intituled, "An Act that the
" counterfeiting

- “ counterfeiting of strange Coins being current within this realm, the
 “ Queen’s Highness’ Sign Manual, Signet or Privy Seal, be adjudged
 “ Treason,” as relates to forging or counterfeiting the Queen’s sign
 manual, privy signet or privy seal ; and an Act passed in the fifth year
 5 of the reign of Queen Elizabeth, intituled, “ An Act against Forgers of
 “ false Deeds and Writings ;” and an Act passed in the twenty-first
 year of the reign of King James the First, intituled, “ An Act against
 “ such as shall levy any Fine, suffer any Recovery, acknowledge any
 “ Statute, Recognizance, Bail or Judgment in the name of any other
 10 “ person or persons not being privy and consenting thereto ;” and so
 much of an Act passed in the fourth year of the reign of King William
 and Queen Mary, intituled, “ An Act for taking Special Bails in the
 “ country upon Actions and Suits depending in the Courts of King’s
 “ Bench, Common Pleas and Exchequer at Westminster,” as relates
 15 to any offence thereby made felony ; and so much of an Act passed in
 the eighth and ninth years of the reign of King William the Third,
 intituled, “ An Act for making good the Deficiencies of several Funds
 “ therein mentioned, and for enlarging the Capital Stock of the Bank
 “ of England, and for raising the Public Credit,” as relates to forging
 20 or counterfeiting the common seal of the Governor and Company of
 the Bank of England, or any sealed bank bill, or any bank note, or
 altering or rasing any indorsement on any bank bill or note ; and so
 much of an Act passed in the seventh year of the reign of Queen Anne,
 intituled, “ An Act for improving the Union of the Two Kingdoms,”
 25 as relates to counterfeiting her Majesty’s seals appointed by the twenty-
 fourth Article of the Union to be kept used and continued in Scotland ;
 and so much of an Act passed in the eighth year of the reign of King
 George the First, intituled, “ An Act to prevent the mischiefs by
 “ forging Powers to transfer such Stocks or to receive such Annuities
 30 “ or Dividends as are therein mentioned, or by fraudulently personating
 “ the true owners thereof, and to rectify mistakes of the late Ma-
 “ nagers for taking Subscriptions for increasing the Capital Stock of
 “ the South Sea Company, and in the instrument founded thereupon,”
 as relates to any forgery or other capital felony therein mentioned ;
 35 and so much of an Act passed in the twelfth year of the same reign,
 intituled, “ An Act for better securing the Monies and Effects of the
 “ Suitors of the Court of Chancery, and to prevent the counterfeiting
 “ of East India Bonds and Indorsements thereon, as likewise Indorse-
 “ ments on South Sea Bonds,” as relates to any person who shall forge
 40 or counterfeit or procure to be forged or counterfeited, or wilfully act
 or assist in forging or counterfeiting, any bond or obligation of the East
 India Company, or any indorsement or assignment thereon, or any bond
 or obligation of the South Sea Company, or shall utter or publish the
 same knowing the same to be forged or counterfeited ; and the whole of
 an Act passed in the second year of the reign of King George the
 Second, intituled, “ An Act for the more effectual preventing and further
 217. C 2 “ punishment,

5 Eliz. c. 14.

21 Jac. 1. c. 26.

4 W. & M. c. 4. s. 4.

8 & 9 W. 3. c. 20. s. 36.

7 Anne, c. 21. s. 9.

8 Geo. 1. c. 22. s. 1.

12 Geo. 1. c. 32. s. 9.

2 Geo. 2. c. 25.
except s. 2.

- 7 Geo. 2. c. 22. " punishment of Forgery, Perjury and subornation of Perjury, and to
 " make it Felony to steal Bonds, Notes or other Securities for payment
 " of Money," except so far as relates to perjury and subornation of
 perjury ; and an Act passed in the seventh year of the same reign, in-
 titled, " An Act for the more effectual preventing the forging the 5
 " Acceptance of Bills of Exchange, or the Numbers or principal Sums
 " of accountable Receipts for Notes, Bills or other Securities for pay-
 " ment of Money, or Warrants or Orders for payment of Money or
 15 Geo. 2. c. 13. s. 11. " delivery of Goods ;" and so much of an Act passed in the fifteenth
 year of the same reign, intituled, " An Act for establishing an agree- 10
 " ment with the Governor and Company of the Bank of England for
 " advancing the sum of One million six hundred thousand pounds
 " towards the Supply for the service of the year one thousand seven
 " hundred and forty-two," as relates to any person who shall forge
 counterfeit or alter any bank note or other matter specified in the said 15
 Act, or shall knowingly offer dispose of or put away such forged, coun-
 terfeit or altered note or other matter, or knowingly demand the money
 therein contained or pretended to be due thereon, or any part thereof,
 as in the said Act is mentioned ; and so much of an Act passed in the
 31 Geo. 2. c. 22.
 s. 77 & 78. thirty-first year of the same reign, intituled, " An Act for granting 20
 " to His Majesty several Rates and Duties upon Offices and Pensions;
 " and upon Houses, and upon Windows or Lights, and for raising the
 " Sum of Five millions by Annuities and a Lottery, to be charged on the
 " said Rates and Duties," as relates to any forgery or other capital felony
 4 Geo. 3. c. 25. s. 15. therein mentioned ; and so much of an Act passed in the fourth year of 25
 the reign of King George the Third, intituled, " An Act for establishing
 " an Agreement with the Governor and Company of the Bank of Eng-
 " land for raising certain sums of Money towards the Supply for the
 " service of the year one thousand seven hundred and sixty-four, and for
 " more effectually preventing the forging powers to transfer such Stock 30
 " or receive such Dividends or Annuities as are therein mentioned, and
 " the fraudulent personating the Owners thereof," as relates to any
 forgery or other capital felony therein mentioned ; and an Act passed
 13 Geo. 3. c. 79. in the thirteenth year of the same reign, intituled, " An Act for the 35
 " more effectual preventing the forging of the Notes or Bills of the
 " Governor and Company of the Bank of England, and for the pre-
 " venting the obtaining a false credit by the imitation of the Notes or
 " Bills of the said Governor and Company ;" and an Act passed in
 18 Geo. 3. c. 18. the eighteenth year of the same reign, intituled, " An Act to 40
 " explain an Act passed in the seventh year of the reign of his late
 " Majesty King George the Second, intituled, ' An Act for the more
 " effectual preventing the forging the Acceptance of Bills of Exchange,
 " or the Numbers or principal Sums of accountable Receipts for
 " Notes Bills or other Securities for payment of Money, or Warrants
 " or Orders for payment of Money or Delivery of Goods ;" and so
 27 Geo. 3. c. 43. s. 4. much of an Act passed in the twenty-seventh year of the reign of
 King

- King George the Third, intituled, " An Act for taking and swearing
 " Affidavits to be made use of in the Court of Session of the County
 " Palatine of Chester, and for taking of Special Bail in Actions and
 " Suits depending in the same Court," as relates to any offence thereby
 5 made felony; and an Act passed in the thirty-third year of the 33 Geo. 3. c. 30.
 reign of King George the Third, intituled, " An Act for the better
 " preventing Forgeries and Frauds in the Transfers of the several
 " Funds transferrable at the Bank of England;" and an Act passed in
 the thirty-seventh year of the same reign, intituled, " An Act for the 37 Geo. 3. c. 122.
 10 " better preventing the forging or counterfeiting the Names of Wit-
 " nesses to Letters of Attorney or other Authorities or Instruments
 " for the transfer of Stocks or Funds, which now are or by any Act
 " or Acts of Parliament shall hereafter be made transferrable at the
 " Bank of England, or for the transfer of any part of the Capital
 15 " Stock of the Governor and Company of the Bank of England,
 " called Bank Stock, or for the transfer of any part of the Capital
 " Stock or any Stocks or Funds under the management of the South
 " Sea Company, or for the transfer of any part of the Capital Stock
 " of the East India Company, or for the receipt of Dividends upon
 20 " any of such Stocks or Funds;" and an Act passed in the forty-first 41 Geo. 3. U.K. c. 39.
 year of the same reign, intituled, " An Act for the more effectually
 " preventing the Forgery of Bank Notes, Bank Bills of Exchange
 " and Bank Post Bills;" and an Act passed in the same year, intituled, 41 Geo. 3. c. 57.
 " An Act for the better Prevention of the Forgery of the Notes and
 25 " Bills of Exchange of persons carrying on the business of Bankers;"
 and so much of an Act passed in the forty-third year of the same reign, 43 Geo. 3. c. 139.
 intituled, " An Act for preventing the forging and counterfeiting of s. 1 & 2.
 " Foreign Bills of Exchange, and of Foreign Promissory Notes and
 " Orders for the payment of Money, and for preventing the coun-
 30 " terfeiting of Foreign Copper Money," as in anywise relates to any
 foreign bill or exchange or foreign promissory note, undertaking
 or order for the payment of money; and an Act passed in the
 forty-fifth year of the same reign, intituled, " An Act to alter and 45 Geo. 3. c. 89.
 " extend the provisions of the Laws now in force for the punishment
 35 " of the Forgery of Bank Notes, Bills of Exchange and other Secu-
 " rities, to every part of Great Britain;" and so much of an Act
 passed in the forty-eighth year of the same reign, intituled, " An Act for 48 Geo. 3. c. 1. s. 9.
 " regulating the issuing and paying off of Exchequer Bills," as relates
 to any forgery or other capital felony therein mentioned; and an
 40 Act passed in the fifty-second year of the same reign, intituled, " An 52 Geo. 3. c. 133.
 " Act for the further Prevention of the counterfeiting of Silver Tokens
 " issued by the Governor and Company of the Bank of England,
 " called Dollars, and of Silver Pieces issued and circulated by the
 " said Governor and Company, called Tokens; and for the further
 " Prevention of Frauds practised by the imitation of the Notes or Bills
 " of the said Governor and Company;" and so much of an Act passed

58 G. 3. c. 146. s. 14. in the same year, intituled " An Act for the better regulating and pre-
 " serving Parish and other Registers of Births, Baptisms, Marriages and
 " Burials in England," as relates to any felony therein mentioned ; and so
 4 Geo. 4. c. 76. s. 29. much of an Act passed in the fourth year of the present reign, intituled,
 " An Act for amending the Laws respecting the Solemnization of 5
 " Marriages in England," as relates to any person who shall knowingly
 and wilfully insert in the register book any false entry of any matter
 relating to any marriage, or shall falsely make, alter, forge or counter-
 feit any such entry in the register or any license of marriage, or shall 10
 utter or publish as true any false, altered, forged or counterfeited register
 of marriage, or a copy thereof, or any false, altered, forged or coun-
 terfeited license of marriage, knowing such register or license of mar-
 riage respectively to be false, altered, forged or counterfeited, or shall
 wilfully destroy any register book of marriages, or any part thereof, or
 shall cause or procure or assist in the commission of any of the said 15
 several offences ; shall continue in force until and throughout the last
 day of in the present year, and shall from
 and after that day, as to that part of the United Kingdom called
 England, be repealed, except so far as any of the said Acts may repeal
 the whole or any part of any other Acts, and except as to offences 20
 committed before or upon the said last day of
 which shall be dealt with and punished as if this Act had not been
 passed : Provided always, That if any person, who shall before or upon
 the said last day of have committed any offence
 against any of the several Acts hereby repealed as aforesaid, shall after 25
 the commencement of this Act be convicted of the same, and such
 offence shall have been made punishable with death by any of the said
 several Acts, but shall not be made punishable with death by this Act,
 in every such case the person convicted of such offence shall not suffer
 the punishment of death, but shall in lieu thereof be liable, at the dis- 30
 cretion of the court, to be transported beyond the seas for life, or for
 any term not less than *Seven* years, or to be imprisoned, with or without
 hard labour, for any term not exceeding *Four* years nor less than *Two*
 years.

Offences committed
 previous to the
 repeal may be tried
 under the old Acts
 after the repeal.

Proviso.

Commencement of
 this Act.

And be it Enacted, That this Act shall commence and take effect on
 the in the present year.

11 Geo. IV.—Sess. 1830.

A

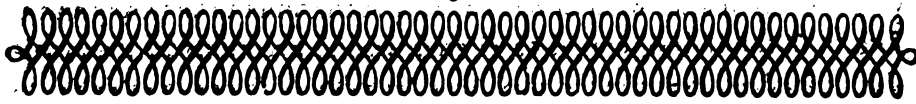
B I L L

For reducing into one Act all such Forgeries as shall henceforth be punished with Death, and for otherwise amending the Laws relative to Forgery.

*Ordered, by The House of Commons, to be Printed,
1 April 1830.*

13 July 1830.

435-



A

B I L L,

[WITH THE AMENDMENTS MADE BY THE LORDS]

INTITULED,

AN ACT for reducing into One Act all such Forgeries as shall henceforth be punished with Death, and for otherwise amending the Laws relative to Forgery.

Note.—The Figures in the Margin denote the Number of Presses in the Ingrossment.

N. B.—The Words printed in ~~Black Letter~~ were left out, and the Words printed in *Italics* were added by The Lords.

- 1 **W**HEREAS several Offences relating to forged Writings and to other forged and counterfeit matters, and to false Personation, false Oaths, false Entries, and other false matters, are now by virtue of several Statutes punishable with Death: And whereas it is expedient that none of those offences shall hereafter be punishable with death, unless the same shall be made punishable with death by this Act; and also that the Statutes concerning such of those offences, whether punishable with death or otherwise, as may more frequently or seriously affect the interests of His Majesty or His subjects, should be amended and consolidated into this Act; BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT where by any Acts now in force any person falsely making, forging, counterfeiting, erasing or altering any matter whatsoever, or uttering, publishing, offering, disposing of, putting away or making use of any matter whatsoever, knowing the same to be falsely made, forged, counterfeited, erased or altered, or any person demanding or endeavouring to receive or have any thing, or to do or cause to be done any act, upon or by
- 666.
- A
- virtue
- Preamble.
- No Forgeries, or other kindred offences, which are now Capital, shall continue so, unless expressly made Capital by this Act.

virtue of any matter whatsoever, knowing such matter to be falsely made, forged, counterfeited, erased or altered, would, according to the provisions contained in any of the said Acts, be guilty of felony, and liable to suffer death as a felon; or where by any Acts now in force any person falsely personating another, or falsely acknowledging any thing in the name of another, or falsely representing any other person than the real party to be such real party, or wilfully making a false entry in any book, account or document, or in any manner wilfully falsifying any part of any book, account or document, or wilfully making a transfer of any stock, annuity or fund, in the name of any person not being the owner thereof, or knowingly taking a false oath, or knowingly making a false affidavit or false affirmation, or demanding or receiving any money or other thing by virtue of any probate or letters of administration, knowing the will on which such probate shall have been obtained to have been false or forged, or knowing such probate or letters of administration to have been obtained by means of any false oath or false affirmation, would, according to the provisions contained in any of the said Acts, be guilty of felony, and liable to suffer death as a felon; or where by any Acts now in force, any person making or using, or knowingly having in his custody or possession any frame, mould, or instrument for the making of paper, with certain words visible in the substance thereof, or any person making such paper, or causing certain words to appear visible in the substance of any paper, would, according to the provisions contained in any of the said Acts, be guilty of felony, and liable to suffer death as a felon; then, and in each of the several cases aforesaid, if any person shall after the commencement of this Act, be convicted of any such felony as is hereinbefore mentioned, or of aiding, abetting, counselling or procuring the commission thereof, such person shall not suffer death for the same, unless the same shall be made punishable with death by this Act; and if the same shall not be made punishable with death by this Act, in such case every person who shall, after the commencement of this Act, be convicted of any such felony, or of aiding, abetting, counselling or procuring the commission thereof, shall be liable, at the discretion of the court, to be transported beyond the seas for life or for any term not less than seven years, or to be imprisoned for any term not exceeding four years nor less than two years: Provided always, That nothing herein contained shall affect or alter any Acts relating to the coin of this realm, or to any coin of any other realm lawfully current within this realm.

All Forgeries and kindred offences, heretofore Capital, and not declared to be Capital by this Act, shall be punished with Transportation for life, &c.

Saving of Acts relating to Coin.

Forging the Great Seal, Privy Seal, Privy Signet, Royal Sign Manual, &c. Treason and Capital. 25 Ed. 3, stat. 5. c. 2. 1 Mary, stat. 2. c. 6. 7 Anne, c. 21. s. 9.

And be it Enacted, That if any person shall forge or counterfeit, or shall utter, knowing the same to be forged or counterfeited, the Great Seal of the United Kingdom, His Majesty's Privy Seal, any Privy Signet of His Majesty, His Majesty's Royal Sign Manual, any of His Majesty's Seals appointed by the Twenty-fourth Article of the Union to be kept, used and continued in Scotland, the Great Seal of Ireland,

or

or the Privy Seal of Ireland, every such offender shall be guilty of high treason, and shall suffer death accordingly: Provided always, That nothing contained in an Act passed in the seventh year of the reign of King William the Third, intituled, "An Act for regulating of Trials in cases of Treason and Misprision of Treason," or in an Act passed in the seventh year of the reign of Queen Anne, intituled, "An Act for improving the Union of the Two Kingdoms," shall extend to any indictment, or to any proceedings thereupon, for any of the treasons hereinbefore mentioned. (')

And be it Enacted, That if any person shall forge or alter, or shall offer, utter, dispose of or put off, knowing the same to be forged or altered, any exchequer bill or exchequer debenture, or any indorsement on or assignment of any exchequer bill or exchequer debenture, or any bond under the common seal of the United Company of Merchants of England trading to the East Indies, commonly called an East India bond, or any indorsement on or assignment of any East India bond, or any note or bill of exchange of the Governor and Company of the Bank of England, commonly called a Bank note, a Bank bill of exchange, or a Bank post bill, or any indorsement on or assignment of any Bank note, Bank bill of exchange, or Bank post bill, *or any will, testament, codicil, or testamentary writing*, or any bill of exchange, or any promissory note for the payment of money, or any indorsement on or assignment of any bill of exchange or promissory note for the payment of money, or any acceptance of any bill of exchange, or any undertaking, warrant or order for the payment of money, with intent, in any of the cases aforesaid, to defraud any person whatsoever, every such offender

Forging an Exchequer Bill, Exchequer Debenture, East India Bond, Bank Note, Will, Bill of Exchange, Promissory Note, or Warrant or Order for payment of Money, Capital.

(') And be it Enacted, That if any person shall forge or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or altered, any will, testament, codicil or testamentary writing, with intent to defraud any person whatsoever, every such offender shall be guilty of felony, and being convicted thereof, shall suffer death as a felon.

And be it Declared and Enacted, That where by any Act now in force any person is made liable to the punishment of death for forging or altering, or for offering, uttering, disposing of or putting off, knowing the same to be forged or altered, any instrument or writing designated in such Act by any special name or description, and such instrument or writing, however designated, is in law, a will, testament, codicil or testamentary writing, in every such case the person forging or altering such instrument or writing, or offering, uttering, disposing of or putting off such instrument or writing, knowing the same to be forged or altered, may be indicted as an offender against this Act, and punished with death accordingly.

offender shall be guilty of felony, and being convicted thereof, shall ⁽¹⁾ *suffer death as a felon.*

If any instrument, however designated, is in law a Bill of Exchange, &c. the forgery of such instrument may be indicted under this Act.

And be it Declared and Enacted, That where by any Act now in force any person is made liable to the punishment of death for forging or altering, or for offering, uttering, disposing of or putting off, knowing the same to be forged or altered, any instrument or writing designated in such Act by any special name or description, and such instrument or writing, however designated, is in law a *will, testament, codicil or testamentary writing, or a bill of exchange or a promissory note for the payment of money, or an indorsement on or assignment of a bill of exchange or promissory note for the payment of money, or an acceptance of a bill of exchange, or an undertaking, warrant or order for the payment of money, within the true intent and meaning of this Act, in every such case the person forging or altering such instrument or writing, or offering, uttering, disposing of, or putting off such instrument or writing, knowing the same to be forged or altered, may be indicted as an offender against this Act, and ⁽¹⁾ punished with Death accordingly.*

And

⁽³⁾ he transported beyond seas for life, or for any other term not less than fourteen years, or be imprisoned for any term not exceeding fourteen years nor less than seven years; and every such offender who may be under the age of sixty-five years at the time of conviction, and until such offender shall attain the age of sixty-five years (if such age be attained during the term of punishment) shall during such term of transportation or imprisonment be kept at hard labour, and be subject to solitary confinement, for such periods, in such manner, and at such places, as the Court before whom such offender shall be tried may order, and conformably to such regulation as His Majesty, by and with the advice of His Privy Council, may from time to time make; and that it shall be lawful for such court, in cases where they see fit, to pass sentence of transportation with hard labour, to take effect after the expiration of the term for which the offender has been condemned to imprisonment with hard labour.

⁽⁴⁾ he transported beyond seas for life, or for any other term not less than fourteen years, or be imprisoned for any term not exceeding fourteen years nor less than seven years; and every such offender who may be under the age of sixty-five years at the time of conviction, and until such offender shall attain the age of sixty-five years (if such age be attained during the term of punishment) shall during such term of transportation or imprisonment be kept at hard labour, and be subject to solitary confinement, for such periods, in such manner, and at such places as the court before whom such offender shall be tried may order, and conformably to such regulation as His Majesty, by and with the advice of His Privy Council, may from time to time make; and that it shall be lawful for such court, in cases where they see fit, to pass sentence of transportation with hard labour, to take effect after the expiration of the term for which the offender has been condemned to imprisonment with hard labour.

7 And be it Enacted, That if any person shall wilfully make any false entry in or wilfully alter any word or figure in any of the books of account kept by the Governor and Company of the Bank of England, or by the Governor and Company of Merchants of Great Britain trading to the South Seas and other parts of America and for encouraging the fishery, commonly called the South Sea Company, in which books the accounts of the owners of any stock, annuities or other public funds which now are or hereafter may be transferrable at the Bank of England or at the South Sea House, shall be entered and kept, or shall in any manner wilfully falsify the accounts of such owners in any of the said books, with intent in any of the cases aforesaid to defraud any person whatsoever; or if any person shall wilfully make any transfer of any share or interest of or in any stock, annuity or other public fund which now is or hereafter may be transferrable at the Bank of England or at the South Sea House, in the name of any person not being the true and lawful owner of such share or interest, with intent to defraud any person whatsoever; every such offender shall be guilty of Felony, and being convicted thereof shall ⁽⁵⁾ *suffer Death as a Felon.*

Making false entries in the books in which the accounts of Public Stock are kept; making a Transfer of any Public Stock in any other name than the true owners; Capital. 34 Geo. 3. c. 30. s. 1 & 3.

8 And be it Enacted, That if any person shall forge or alter, or shall utter, knowing the same to be forged or altered, any transfer of any share or interest of or in any stock, annuity, or other public fund which now is or hereafter may be transferrable at the Bank of England or at the South Sea House, or of or in the capital stock of any body corporate, company, or society which now is or hereafter may be established by charter or Act of Parliament, or shall forge or alter, or shall utter, knowing the same to be forged or altered, any power of attorney or other authority to transfer any share or interest of or in any such stock, annuity, public fund, or capital stock as is hereinbefore mentioned,
or

Forging a Transfer of any Public Stock, or of certain other Stock; forging a Power of Attorney to transfer the same or to receive dividends thereon; Transfer of Stock or receipt of dividends by false personation; Capital. 33 Geo. 3. c. 30. s. 2. 8 Geo. 1. c. 22. s. 1. 31 Geo. 2. c. 22. s. 77. 4 Geo. 3. c. 25. s. 15.

(⁵) be transported beyond seas for life, or for any other term not less than fourteen years, or be imprisoned for any term not exceeding fourteen years nor less than seven years; and every such offender who may be under the age of sixty-five years at the time of conviction, and until such offender shall attain the age of sixty-five years (if such age be attained during the term of punishment) shall during such term of transportation or imprisonment be kept at hard labour, and be subject to solitary confinement, for such periods, in such manner, and at such places as the court before whom such offender shall be tried may order, and conformably to such regulation as His Majesty, by and with the advice of His Privy Council, may from time to time make; and that it shall be lawful for such court, in cases where they see fit, to pass sentence of transportation with hard labour, to take effect after the expiration of the term for which the offender has been condemned to imprisonment with hard labour.

or to receive any dividend payable in respect of any such share or interest, or shall demand or endeavour to have any such share or interest transferred, or to receive any dividend payable in respect thereof, by virtue of any such forged or altered power of attorney or other authority, knowing the same to be forged or altered, with intent in any of the several cases aforesaid to defraud any person whatsoever; or if any person shall falsely and deceitfully personate any owner of any such share interest or dividend as aforesaid, and thereby transfer any share or interest belonging to such owner, or thereby receive any money due to such owner, as if such person were the true and lawful owner, every such offender shall be guilty of Felony, and being convicted thereof, shall⁽⁶⁾ *suffer Death as a Felon.*

Personating the owner of any Public Stock, or certain other Stock, and endeavouring to transfer or to receive the dividends, Transportation for Life, &c.
4 Geo. 3. c. 25. s. 15.

And be it Enacted, That if any person shall falsely and deceitfully personate any owner of any share or interest of or in any stock, annuity or other public fund which now is or hereafter may be transferrable at the Bank of England or at the South Sea House, or any owner of any share or interest of or in the capital stock of any body corporate, company or society which now is or hereafter may be established by charter or Act of Parliament, or any owner of any dividend payable in respect of any such share or interest as aforesaid, and shall thereby endeavour to transfer any share or interest belonging to any such owner, or thereby endeavour to receive any money due to any such owner, as if such offender were the true and lawful owner, every such offender shall be guilty of Felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be transported beyond the seas for life, or for any term not less than Seven years, or to be imprisoned for any term not exceeding Four years nor less than Two years. 9

And

(⁶) he transported beyond seas for life, or for any other term not less than fourteen years, or be imprisoned for any term not exceeding fourteen years nor less than seven years; and every such offender who may be under the age of sixty-five years at the time of conviction, and until such offender shall attain the age of sixty-five years (if such age be attained during the term of punishment) shall during such term of transportation or imprisonment be kept at hard labour, and be subject to solitary confinement, for such periods, in such manner, and at such places as the court before whom such offender shall be tried may order, and conformably to such regulation as His Majesty, by and with the advice of His Privy Council, may from time to time make; and that it shall be lawful for such court, in cases where they see fit, to pass sentence of transportation with hard labour, to take effect after the expiration of the term for which the offender has been condemned to imprisonment with hard labour.

And be it Enacted, That if any person shall forge the name or hand-writing of any person as or purporting to be a witness attesting the execution of any power of attorney or other authority to transfer any share or interest of or in any such stock, annuity, public fund or capital stock as is hereinbefore mentioned, or to receive any dividend payable in respect of any such share or interest, or shall utter any such power of attorney or other authority with the name or hand-writing of any person forged thereon as an attesting witness, knowing the same to be forged, every such offender shall be guilty of Felony, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for the term of Seven years, or to be imprisoned for any term not exceeding Two years nor less than One year.

Forging the Attestation to any Power of Attorney for transfer of Stock, &c. Felony; Transportation for Seven years, &c. 37 Geo. 3. c. 122.

And be it Enacted, That if any clerk, officer, or servant of, or other person employed or intrusted by the Governor and Company of the Bank of England, or the Governor and Company of Merchants commonly called the South Sea Company, shall knowingly make out or deliver any dividend warrant for a greater or less amount than the person or persons on whose behalf such dividend warrant shall be made out is or are entitled to, with intent to defraud any person whatsoever, every such offender shall be guilty of Felony, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for the term of Seven years, or to be imprisoned for any term not exceeding Two years nor less than One year.

Clerks of the Bank wilfully making out Dividend Warrants for a greater or less sum than what is really due, shall be transported for Seven years, or, &c. 33 Geo. 3. c. 30. s. 4.

And be it Enacted, That if any person shall forge or alter, or shall offer, utter, dispose of or put off, knowing the same to be forged or altered, any deed, bond or writing obligatory, or any court roll or copy of any court roll relating to any copyhold or customary estate, or any acquittance or receipt, either for money or goods, or any accountable receipt, either for money or goods, or for any note, bill or other security for payment of money, or any warrant, order or request for the delivery or transfer of goods, or for the delivery of any note, bill or other security for payment of money, with intent to defraud any person whatsoever, every such offender shall be guilty of Felony, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for Life, or for any term not less than Seven years, or to be imprisoned for any term not exceeding Four years nor less than Two years.

Forging a Deed, Bond, Receipt for money or goods, or an accountable receipt, or an Order for delivery of goods, Felony; Transportation for life, or, &c. 45 Geo. 3. c. 89. s. 1.

And be it Enacted, That if any person shall, before any Court, Judge, or other person lawfully authorized to take any recognizance or bail, acknowledge any recognizance or bail in the name of any other person not privy or consenting to the same, whether such recognizance or bail in either case be or be not filed; or if any person shall, in the name of any other person not privy or consenting to the same, acknowledge any fine, recovery, cognovit actionem, or judgment, or any deed

Fraudulently acknowledging any Recognizance, Bail, Fine, Recovery or Judgment, in the name of another, shall be Felony; Transportation for Life, &c. 21 Jac. 1. c. 26. 4 W. & M. c. 4. s. 4. 27 Geo. 3. c. 43. s. 4.

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to be enrolled ; every such offender shall be guilty of felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be transported beyond the seas for Life, or for any term not less than Seven years, or to be imprisoned for any term not exceeding Four years nor less than Two years. 12

Knowingly purchasing or receiving forged Bank Notes, or having them in possession, Felony ; Transportation for 14 years. 45 Geo. 3. c. 89. s. 6. which supersedes 41 Geo. 3. c. 39. s. 5.

And be it Enacted, That if any person shall, without lawful excuse, the proof whereof shall lie upon the party accused, purchase or receive from any other person, or have in his custody or possession, any forged bank note, bank bill of exchange, or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, knowing the same respectively to be forged, every such offender shall be guilty of Felony, and, being convicted thereof, shall be transported beyond the seas for the term of Fourteen years.

If any person, without authority from the Bank of England, shall make or have in his possession any Mould for making Paper with the words " Bank of England " visible in the substance of the paper, or for making paper with curved bar lines, or with any number or sum expressed in words in Roman letters visible in the substance of the paper, &c. or shall sell such paper, &c. he shall be transported for 14 years. Now Capital as to the words " Bank of England," by 13 Geo. 3. c. 79 ; and see, as to the residue, 45 Geo. 3. c. 89. s. 3.

And be it Enacted, That if any person shall, without the authority of the Governor and Company of the Bank of England, to be proved by the party accused, make or use, or shall without lawful excuse, to be proved by the party accused, knowingly have in his custody or possession any frame, mould or instrument for the making of paper, with the words " Bank of England " visible in the substance of the paper, or for the making of paper with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved shape, or with any number, sum or amount expressed in a word or words in roman letters, visible in the substance of the paper ; or if any person shall, without such authority, to be proved as aforesaid, manufacture, use, sell, expose to sale, utter or dispose of, or shall, without lawful excuse, to be proved as aforesaid, knowingly have in his custody or possession any paper whatsoever with the words " Bank of England " visible in the substance of the paper, or any paper with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved shape, or with any number, sum or amount expressed in a word or words in roman letters, appearing visible in the substance of the paper ; or if any person, without such authority, to be proved as aforesaid, shall by any art or contrivance cause the words " Bank of England " to appear visible in the substance of any paper, or cause the numerical sum or amount of any bank note, bank bill of exchange, or bank post bill, blank bank note, blank bank bill of exchange, or blank bank post bill, in a word or words in roman letters, to appear visible in the substance of the paper whereon the same shall be written or printed ; every such offender shall be guilty of Felony, and being convicted thereof, shall be transported beyond the seas for the term of Fourteen years. 13

Proviso, 45 Geo. 3. c. 89. s. 4. & A.

Provided always, and be it Enacted, That nothing herein contained shall prevent any person from issuing any bill of exchange or promissory note having the amount thereof expressed in guineas, or in a numerical figure or figures denoting the amount thereof in pounds sterling, appearing 14

ing visible in the substance of the paper upon which the same shall be written or printed, nor shall prevent any person from making, using or selling any paper having waving or curved lines, or any other devices in the nature of watermarks, visible in the substance of the paper, not being bar lines or laying wire lines, provided the same are not so contrived as to form the groundwork or texture of the paper, or to resemble the waving or curved laying wire lines or bar lines or the watermarks of the paper used by the Governor and Company of the Bank of England.

- And be it Enacted, That if any person shall engrave or in anywise make upon any plate whatever, or upon any wood, stone or other material, any promissory note or bill of exchange, or blank promissory note or blank bill of exchange, or part of a promissory note or bill of exchange, purporting to be a bank note, bank bill of exchange, or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, or part of a bank note, bank bill of exchange, or bank post bill, without the authority of the Governor and Company of the Bank of England, to be proved by the party accused; or if any person shall use such plate, wood, stone or other material, or any other instrument or device for the making or printing any bank note, bank bill of exchange, or bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, or part of a bank note, bank bill of exchange, or bank post bill, without such authority to be proved as aforesaid; or if any person shall without lawful excuse, the proof whereof shall lie on the party accused, knowingly have in his custody or possession any such plate, wood, stone or other material, or any such instrument or device; or if any person shall, without such authority, to be proved as aforesaid, knowingly offer, utter, dispose of, or put off any paper upon which any blank bank note, blank bank bill of exchange, or blank bank post bill, or part of a bank note, bank bill of exchange, or bank post bill, shall be made or printed; or if any person shall, without lawful excuse, to be proved as aforesaid, knowingly have in his custody or possession any such paper; every such offender shall be guilty of Felony, and being convicted thereof, shall be transported beyond the seas for the term of Fourteen years.

If any person without authority from the Bank of England, shall engrave, &c. on any plate, &c. any Bank Note, blank bank note, or part of a bank note, or shall use such plate, or shall have in his possession such plate, &c. or shall utter any Paper upon which a blank bank note, &c. shall be printed, or shall have in his possession such paper, Felony; Transportation for fourteen years.
45 Geo. 3. c. 89. s. 7.
which supersedes
41 Geo. 3. c. 39. s. 6.

- 16 And be it Enacted, That if any person shall engrave or in anywise make upon any plate whatever, or upon any wood, stone, or other material, any word, number, figure, character or ornament, the impression taken from which shall resemble or apparently be intended to resemble any part of a bank note, bank bill of exchange, or bank post bill, without the authority of the Governor and Company of the Bank of England, to be proved by the party accused; or if any person shall use any such plate, wood, stone, or other material, or any other instrument or device for the making upon any paper or other material the impression of any word, number, figure, character, or ornament

If any person, without authority from the Bank of England, shall engrave, &c. on any plate, &c. any Word, number or ornament resembling any part of a Bank note, &c. or shall use any such plate, &c. or shall knowingly have in his possession such plate, &c. or shall utter any paper on which there shall be an impression of any

word, number, &c. or shall knowingly have in his possession any such paper, Felony; Transportation for fourteen years.

52 Geo. 3. c. 79. s. 2. which supersedes 13 Geo. 3. c. 79. s. 2. and see 1 Geo. 4. c. 92.

which shall resemble or apparently be intended to resemble any part of a bank note, bank bill of exchange, or bank post bill, without such authority, to be proved as aforesaid; or if any person shall, without lawful excuse, the proof whereof shall lie on the party accused, knowingly have in his custody or possession any such plate, wood, stone, or other material, or any such instrument or device; or if any person shall, without such authority, to be proved as aforesaid, knowingly offer, utter, dispose of or put off any paper or other material upon which there shall be an impression of any such matter as aforesaid; or if any person shall, without lawful excuse, to be proved as aforesaid, knowingly have in his custody or possession any paper or other material upon which there shall be an impression of any such matter as aforesaid; every such offender shall be guilty of Felony, and, being convicted thereof, shall be transported beyond the seas for the term of Fourteen years. 17

Making, without lawful authority, any Mould for manufacturing paper, with the name of any bankers appearing in the substance of the paper, having such Mould in possession, manufacturing, &c. or having such paper in possession, or causing the name to appear in the substance of the paper, Felony; Transportation for fourteen years, or, &c. 41 Geo. 3. c. 57. s. 1.

And be it Enacted, That if any person shall make or use any frame, mould, or instrument for the manufacture of paper, with the name or firm of any person or persons, body corporate, or company carrying on the business of bankers (other than and except the Bank of England) appearing visible in the substance of the paper, without the authority of such person or persons, body corporate or company, the proof of which authority shall lie on the party accused; or if any person shall, without lawful excuse, the proof whereof shall lie on the party accused, knowingly have in his custody or possession any such frame, mould or instrument; or if any person shall, without such authority, to be proved as aforesaid, manufacture, use, sell, expose to sale, utter, or dispose of, or shall, without lawful excuse, to be proved as aforesaid, knowingly have in his custody or possession any paper in the substance of which the name or firm of any such person or persons, body corporate, or company carrying on the business of bankers shall appear visible; or if any person shall, without such authority, to be proved as aforesaid, cause the name or firm of any such person or persons, body corporate, or company carrying on the business of bankers, to appear visible in the substance of the paper upon which the same shall be written or printed; every such offender shall be guilty of Felony, and, being convicted thereof, shall be liable, at the discretion of the Court, to be transported beyond the seas for any term not exceeding Fourteen years nor less than Seven years, or to be imprisoned for any term not exceeding Three years nor less than One year. 18

If any person, without authority, shall engrave, &c. on any plate, &c. any Bill of Exchange or Promissory Note of any bankers, or any words resembling the subscription subjoined thereto, or shall use any such plate, or shall utter

And be it Enacted, That if any person shall engrave or in anywise make upon any plate whatever, or upon any wood, stone or other material, any bill of exchange or promissory note for the payment of money or any part of any bill of exchange or promissory note for the payment of money, purporting to be the bill or note or part of the bill or note of any person or persons, body corporate or company carrying on the business of bankers (other than and except the Bank of England) without

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without the authority of such person or persons, body corporate or company, the proof of which authority shall lie on the party accused; or if any person shall engrave or make upon any plate whatever, or upon
 19 any wood, stone or other material, any word or words resembling or apparently intended to resemble any subscription subjoined to any bill of exchange or promissory note for the payment of money issued by any such person or persons, body corporate or company carrying on the business of bankers, without such authority, to be proved as aforesaid; or if any person shall without such authority, to be proved as aforesaid, use, or shall without lawful excuse, to be proved by the party accused, knowingly have in his custody or possession, any plate, wood, stone or other material upon which any such bill or note or part thereof, or any word or words resembling or apparently intended to resemble such subscription, shall be engraved or made; or if any person shall without such authority, to be proved as aforesaid, knowingly offer, utter, dispose of or put off, or shall without lawful excuse, to be proved as aforesaid, knowingly have in his custody or possession any paper upon which any part of such bill or note, or any word or words resembling or apparently intended to resemble any such subscription, shall be made
 20 or printed; every such offender shall be guilty of Felony, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding Fourteen years nor less than Seven years, or to be imprisoned for any term not exceeding Three years nor less than One year.

or have in possession any paper upon which any part of any such bill or note, or any such subscription, shall be printed, Felony; Transportation for fourteen years, or, &c. 41 Geo. 3. c. 57. s. 2 & 3.

And be it Enacted, That if any person shall engrave, or in anywise make upon any plate whatever, or upon any wood, stone or other material, any bill of exchange, promissory note, undertaking or order for payment of money, or any part of any bill of exchange, promissory note, undertaking or order for payment of money, in whatever language or languages the same may be expressed, and whether the same shall or shall not be or be intended to be under seal, purporting to be the bill, note, undertaking or order, or part of the bill, note, undertaking or order of any foreign prince or state, or of any minister or officer in the service of any foreign prince or state, or of any body corporate, or body of the like nature, constituted or recognized by any foreign prince or state, or of any person or company of persons
 21 resident in any country not under the dominion of His Majesty, without the authority of such foreign prince or state, minister or officer, body corporate, or body of the like nature, person or company of persons, the proof of which authority shall lie on the party accused; or if any person shall without such authority, to be proved as aforesaid, use, or shall without lawful excuse, to be proved by the party accused, knowingly have in his custody or possession any plate, stone, wood or other material upon which any such foreign bill, note, undertaking or order, or any part thereof shall be engraved or made; or if any person shall
 666.

Engraving Plates, &c. for foreign bills or notes; using or having possession of such plates; uttering or having possession of any paper on which any part of such foreign bill or note may be printed; Felony; Transportation for 14 years, or, &c. 43 Geo. 3. c. 139. s. 2.

without

without such authority, to be proved as aforesaid, knowingly offer, utter, dispose of or put off, or shall without lawful excuse, to be proved as aforesaid, knowingly have in his custody or possession, any paper upon which any part of such foreign bill, note, undertaking or order shall be made or printed; every such offender shall be guilty of Felony, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding Fourteen years nor less than Seven years, or to be imprisoned for any term not exceeding Three years nor less than One year.

22

Inserting any false entry in any Register of Baptisms, Marriages or Burials; forging or altering any such entry; uttering any false or forged entry; destroying, &c. the register; forging any license of marriage; Felony: Transportation for life, or &c.
52 Geo. 3. c. 146. s. 14.
4 Geo. 4. c. 76. s. 29.

And be it Enacted, That if any person shall knowingly and wilfully insert, or cause or permit to be inserted, in any register of baptisms, marriages or burials, which hath been or shall be made or kept by the rector, vicar, curate or officiating minister of any parish, district-parish or chapelry in England, any false entry of any matter relating to any baptism, marriage or burial, or shall forge or alter in any such register any entry of any matter relating to any baptism, marriage or burial; or shall utter any writing as and for a copy of an entry in any such register of any matter relating to any baptism, marriage or burial, knowing such writing to be false, forged or altered; or if any person shall utter any entry in any such register of any matter relating to any baptism, marriage or burial, knowing such entry to be false, forged or altered, or shall utter any copy of such entry knowing such entry to be false, forged or altered, or shall wilfully destroy, deface or injure, or cause or permit to be destroyed, defaced or injured, any such register or any part thereof; or shall forge or alter, or shall utter, knowing the same to be forged or altered, any license of marriage; every such offender shall be guilty of Felony, and being convicted thereof shall be liable, at the discretion of the court, to be transported beyond the seas for Life, or for any term not less than Seven years, or to be imprisoned 23 for any term not exceeding Four years nor less than Two years.

Rector, &c. not liable to any penalty for correcting, in the mode prescribed, accidental errors in the Register.
52 Geo. 3. c. 146. s. 15.

Provided always, and be it Enacted, That no rector, vicar, curate, or officiating minister of any parish, district-parish or chapelry, who shall discover any error in the form or substance of the entry in the register of any baptism, marriage, or burial respectively by him solemnized, shall be liable to any of the penalties herein mentioned, if he shall, within One calendar month after the discovery of such error, in the presence of the parent or parents of the child baptized, or of the parties married, or in the presence of two persons who shall have attended at any burial, or in the case of the death or absence of the respective parties aforesaid, then in the presence of the churchwardens or chapelwardens correct the entry which shall have been found erroneous, according to the truth of the case, by entry in the margin of the register wherein such erroneous entry shall have been made, without any alteration or obliteration of the original entry, and shall sign such entry in the margin, and add to such 24 signature

signature the day of the month and year when such correction shall be made; and such correction and signature shall be attested by the parties in whose presence the same are directed to be made as aforesaid: Provided also, That in the copy of the register which shall be transmitted to the registrar of the diocese, the said rector, vicar, curate, or officiating minister shall certify the corrections so made by him as aforesaid.

25 AND whereas Copies of the Registers of baptisms, marriages, and burials, such copies being signed and verified by the written declaration of the rector, vicar, curate, or officiating minister of every parish, district-parish, and chapelry in England where the ceremonies of baptism, marriage, and burial may lawfully be performed, are directed by law to be made and transmitted to the registrar of the diocese within which such parish, district-parish, or chapelry may be situated; BE it therefore Enacted, That if any person shall knowingly and wilfully insert, or cause or permit to be inserted in any copy of any register so directed to be transmitted as aforesaid, any false entry of any matter relating to any baptism, marriage, or burial, or shall forge or alter, or shall utter, knowing the same to be forged or altered, any copy of any register so directed to be transmitted as aforesaid, or shall knowingly and wilfully sign or verify any copy of any register so directed to be transmitted as aforesaid, which copy shall be false in any part thereof, knowing the same to be false, every such offender shall be guilty or Felony, and being convicted thereof shall be liable, at the discretion of the Court, to be transported beyond the seas for the term of Seven years, or to be imprisoned for any term not exceeding Two years nor less than One year.

Inserting in any copy of a Register of baptisms, marriages or burials, transmitted to the registrar, any false entry; forging any such copy, or signing and verifying any such copy knowing it to be false; Felony; Transportation for seven years, or &c. 52 Geo. 3. c. 14 9. s. 14.

26 AND whereas by an Act passed in the fifth year of the reign of Queen Elizabeth, intituled, "An Act against Forgers of false Deeds and Writings," it is amongst other things provided, that every person convicted of any of the offences first enumerated in that Act, shall pay to the party grieved his double costs and damages, and shall forfeit to the Crown the whole issues of his lands and tenements during his life, and shall also suffer imprisonment during his life: AND whereas there are certain Acts by which persons convicted of certain offences, mentioned in those Acts, are subjected to the same pains and penalties as are imposed by the said Act of Queen Elizabeth for the offences first enumerated in that Act: AND whereas the said Act of Queen Elizabeth is hereinafter repealed; and it is expedient to substitute other punishments in lieu of the punishments of that Act, so far as the same have been adopted by any other Acts; BE it therefore Enacted, That every person who shall, after the commencement of this Act, be convicted of any offence which is now subjected, by any Act or Acts, to the same pains and penalties as are imposed by the said Act of 666.

Offences enumerated in 5 Eliz. c. 14. and the several other Acts herein mentioned, Felonies; Transportation for 14 years, or &c.

D

Queen

Queen Elizabeth for any of the offences first enumerated in that Act, shall be guilty of Felony, and shall in lieu of such pains and penalties be 27 liable, at the discretion of the court, to be transported beyond the seas for any term not exceeding Fourteen years nor less than Seven years, or to be imprisoned for any term not exceeding Three years nor less than One year.

All Forgers and Utterers may be tried in the county where they are apprehended or are in custody.

And be it Enacted, That if any person shall commit any offence against this Act, or shall commit any offence of forging or altering any matter whatsoever, or of offering, uttering, disposing of or putting off any matter whatsoever, knowing the same to be forged or altered, whether the offence in any such case shall be indictable at common law or by virtue of any statute or statutes made or to be made, the offence of every such offender may be dealt with, indicted, tried and punished, and laid and charged to have been committed in any county or place in which he shall be apprehended or be in custody, as if his offence had been actually committed in that county or place; and every accessory before or after the fact to any such offence, if the same be a felony, and every person aiding abetting or counselling the commission of any 28 such offence, if the same be a misdemeanor, may be dealt with, indicted, tried, and punished, and his offence laid and charged to have been committed in any county or place in which the principal offender may be tried.

As to Principals in the second degree and Accessories to offences against this Act.

And be it Enacted, That in the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable with death, or otherwise, in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act shall, on conviction, be liable to be imprisoned for any term not exceeding Two years.

The Court may order hard labour or solitary confinement for offences against this Act.

And be it Enacted, That where any person shall be convicted of any offence punishable under this Act, for which imprisonment may be awarded, it shall be lawful for the Court to sentence the offender to be imprisoned, with or without hard labour, in the Common Gaol or House of Correction, and also to direct that the offender shall be kept in solitary confinement for the whole or any portion or portions of such imprisonment, as to the Court in its discretion shall seem meet.

As to Offences against this Act committed at Sea.

And be it Enacted, That where any offence punishable under this Act shall be committed within the jurisdiction of the Admiralty, the same shall be dealt with, inquired of, tried and determined in the same manner as any other offence committed within that jurisdiction.

And

449

And be it Declared and Enacted, That where the having any matter in the custody or possession of any person is in this Act expressed to be an offence, if any person shall have any such matter in his personal custody or possession, or shall knowingly and wilfully have any such matter in any dwelling-house or other building, lodging, apartment, field or other place, open or enclosed, whether belonging to or occupied by himself or not, and whether such matter shall be so had for his own use or for the use or benefit of another, every such person shall be deemed and taken to have such matter in his custody or possession within the meaning of this Act; and where the committing any offence with intent to defraud any person whatsoever is made punishable by this Act, in every such case the word " Person " shall throughout this Act be deemed to include His Majesty or any foreign prince or state, or any body corporate, or any company or society of persons not incorporated, or any person or number of persons whatsoever who may be intended to be defrauded by such offence, whether such body corporate, company, society, person or number of persons shall reside or carry on business in England or elsewhere, in any place or country, whether under the dominion of His Majesty or not; and it shall be sufficient in any indictment to name one person only of such company, society or number of persons, and to allege the offence to have been committed with intent to defraud the person so named, and another or others, as the case may be.

Rule of interpretation as to criminal possession, and as to parties intended to be defrauded. See 7 & 8 Geo. 4. c. 28, s. 14. 7 Geo. 4, c. 64. s. 14.

And be it Enacted, That this Act shall not extend to any offence committed in Scotland or Ireland.

This Act not to extend to Scotland or Ireland;

31 Provided always, and be it Declared and Enacted, That where the forging or altering any writing or matter whatsoever, or the offering, uttering, disposing of, or putting off any writing or matter whatsoever, knowing the same to be forged or altered, is in this Act expressed to be an offence, if any person shall, in that part of the United Kingdom called England, forge or alter, or offer, utter, dispose of, or put off, knowing the same to be forged or altered, any such writing or matter, in whatsoever place or country out of England, whether under the dominion of His Majesty or not, such writing or matter may purport to be made, or may have been made, and in whatever language or languages the same or any part thereof may be expressed, every such person, and every person aiding, abetting or counselling such person shall be deemed to be an offender within the meaning of this Act, and shall be punishable thereby in the same manner as if the writing or matter had purported to be made or had been made in England; and if any person shall in England forge or alter, or offer, utter, dispose of, or put off, knowing the same to be forged or altered, any bill of exchange or any promissory note for the payment of money, or any indorsement on or assignment of any bill of exchange or promissory note

but to apply to the forging or uttering in England documents purporting to be made, or actually made, out of England;

and to the forging or uttering in England Bills of Exchange, Promissory Notes, Bonds, &c. purporting to be payable out of England.

note for the payment of money, or any acceptance of any bill of exchange, or any undertaking, warrant, or order for the payment of money or any deed bond or writing obligatory for the payment of money (whether such deed, bond, or writing obligatory shall be made only for the payment of money, or for the payment of money together with some other purpose) in whatever place or country out of England, whether under the dominion of His Majesty or not, the money payable or secured by such bill, note, undertaking, warrant, order, deed, bond or writing obligatory may be or may purport to be payable, and in whatever language or languages the same respectively, or any part thereof, may be expressed, and whether such bill, note, undertaking, warrant or order be or be not under seal, every such person, and every person aiding, abetting, or counselling such person, shall be deemed to be an offender within the meaning of this Act, and shall be punishable thereby in the same manner as if the money had been payable or had purported to be payable in England. 32

Repeal of
25 Edw. 3. stat. 5.
c. 2.

1 Mary stat. 2. c. 6.

5 Eliz. c. 14.

21 Jac. 1. c. 26.

4 W. & M. c. 4. s. 4.

8 & 9 W. 3. c. 20.
s. 36.

7 Anne, c. 21. s. 9.

And be it Enacted, That so much of a Statute made in the twenty-fifth year of the reign of King Edward the Third as relates to counterfeiting the King's Great or Privy Seal, and so much of an Act passed in the first year of the reign of Queen Mary, intituled, "An Act that 33
" the counterfeiting of strange Coins being current within this Realm,
" the Queen's Highness' Sign Manual, Signet, or Privy Seal, be adjudged Treason," as relates to forging or counterfeiting the Queen's sign manual, privy signet or privy seal; and an Act passed in the fifth year of the reign of Queen Elizabeth, intituled, "An Act against
" Forgers of false Deeds and Writings;" and an Act passed in the twenty-first year of the reign of King James the First, intituled, "An
" Act against such as shall levy any Fine, suffer any Recovery, acknowledge any Statute, Recognizance, Bail or Judgment in the name of
" any other Person or Persons not being privy and consenting thereto;" and so much of an Act passed in the fourth year of the reign of King William and Queen Mary, intituled, "An Act for taking Special Bails
" in the Country upon Actions and Suits depending in the Courts of
" King's Bench, Common Pleas and Exchequer at Westminster," as relates to any offence thereby made felony; and so much of an Act passed in the eighth and ninth years of the reign of King William the Third, intituled, "An Act for making good the Deficiencies of several 34
" Funds therein mentioned, and for enlarging the Capital Stock of the
" Bank of England, and for raising the Public Credit," as relates to forging or counterfeiting the common seal of the Governor and Company of the Bank of England, or any sealed Bank bill, or any Bank note, or altering or raising any indorsement on any Bank bill or note; and so much of an Act passed in the seventh year of the reign of Queen Anne, intituled, "An Act for improving the Union of the two Kingdoms," as relates to counterfeiting Her Majesty's seals, appointed by

- by the twenty-fourth article of the Union to be kept, used and continued in Scotland; and so much of an Act passed in the eighth year of the reign of King George the First, intituled, "An Act to prevent 8 Geo. 1. c. 22. s. 1.
 " the Mischiefs by forging Powers to transfer such Stocks or to
 " receive such Annuities or Dividends as are therein mentioned, or by
 " fraudulently personating the true Owners thereof; and to rectify
 " Mistakes of the late Managers for taking Subscriptions for increasing
 " the Capital Stock of the South Sea Company, and in the Instrument
 " founded thereupon," as relates to any Forgery or other capital felony
 35 therein mentioned; and so much of an Act passed in the twelfth year
 of the same reign, intituled, "An Act for better securing the Monies 12 Geo. 1. c. 32. s. 9.
 " and Effects of the Suitors of the Court of Chancery, and to prevent
 " the counterfeiting of East India Bonds and Indorsements thereon, as
 " likewise Indorsements on South Sea Bonds," as relates to any person
 who shall forge or counterfeit, or procure to be forged or counterfeited,
 or wilfully act or assist in forging or counterfeiting any bond or obligation
 of the East India Company, or any indorsement or assignment
 thereon, or on any bond or obligation of the South Sea Company, or
 shall utter or publish the same knowing the same to be forged or counterfeited;
 and the whole of an Act passed in the second year of the
 reign of King George the Second, intituled, "An Act for the more 2 Geo. 2. c. 25.
 " effectual preventing and further punishment of Forgery, Perjury, and except s. 2.
 " Subornation of Perjury, and to make it Felony to steal Bonds, Notes,
 " or other Securities for Payment of Money," except so far as relates
 to perjury and subornation of perjury; and an Act passed in the seventh
 year of the same reign, intituled, "An Act for the more effectual pre- 7 Geo. 2. c. 22.
 " venting the forging the Acceptance of Bills of Exchange, or the
 " Numbers or Principal Sums of accountable Receipts for Notes, Bills,
 36 " or other Securities for payment of Money, or Warrants or Orders
 " for payment of Money or delivery of Goods;" and so much of an
 Act passed in the fifteenth year of the same reign, intituled, "An Act 15 Geo. 2. c. 13. s. 11.
 " for establishing an Agreement with the Governor and Company of
 " the Bank of England for advancing the Sum of One million six
 " hundred thousand pounds towards the Supply for the Service of the
 " year One thousand seven hundred and forty-two," as relates to any
 person who shall forge, counterfeit, or alter any bank note or other
 matter specified in the said Act, or shall knowingly offer, dispose of, or
 put away such forged, counterfeit, or altered Note or other matter, or
 knowingly demand the money therein contained or pretended to be due
 thereon, or any part thereof, as in the said Act is mentioned; and so
 much of an Act passed in the thirty-first year of the same reign, intituled, 31 Geo. 2. c. 22.
 " An Act for granting to His Majesty several Rates and Duties s. 77 & 78.
 " upon Offices and Pensions, and upon Houses, and upon Windows
 " or Lights, and for raising the Sum of Five Millions by Annuities
 37 " and a Lottery to be charged on the said Rates and Duties," as
 666. E relates

- relates to any Forgery or other capital Felony therein mentioned ; and
- 4 Geo. 3. c. 25. s. 15. so much of an Act passed in the fourth year of the reign of King George the Third, intituled, " An Act for establishing an Agreement " with the Governor and Company of the Bank of England for raising " certain Sums of Money towards the Supply for the Service of the " year one thousand seven hundred and sixty-four, and for more effectually preventing the forging Powers to transfer such stock or receive " such dividends or annuities as are therein mentioned, and the fraudulent personating the owners thereof," as relates to any forgery or
- 13 Geo. 3. c. 79. other capital felony therein mentioned ; and an Act passed in the thirteenth year of the same reign, intituled " An Act for the more effectual " preventing the forging of the Notes or Bills of the Governor and Company of the Bank of England, and for the preventing the obtaining " a false Credit by the imitation of the Notes or Bills of the said Governor and Company ;" and an Act passed in the eighteenth year of the same reign, intituled, " An Act to explain an Act passed in the 38
- 18 Geo. 3. c. 18. " seventh year of the reign of his late Majesty King George the Second, " intituled, ' An Act for the more effectual preventing the forging the " ' Acceptance of Bills of Exchange, or the Numbers or Principal Sums " ' of accountable Receipts for Notes, Bills or other Securities for Payment of Money, or Warrants or Orders for Payment of Money or
- 27 Geo. 3. c. 43. s. 4. " ' Delivery of Goods ; ' " and so much of an Act passed in the twenty-seventh year of the reign of King George the Third, intituled, " An Act " for taking and swearing Affidavits to be made use of in the Court of " Session of the County Palatine of Chester, and for taking of Special " Bail in Actions and Suits depending in the same Court," as relates to
- 33 Geo. 3. c. 30. any offence thereby made felony ; and an Act passed in the thirty-third year of the reign of King George the Third, intituled, " An Act for the " better preventing Forgeries and Frauds in the Transfers of the several " Funds transferrable at the Bank of England ;" and an Act passed in the
- 37 Geo. 3. c. 122. thirty-seventh year of the same reign, intituled, " An Act for the better " preventing the forging or counterfeiting the names of witnesses to " Letters of Attorney or other authorities, or instruments for the transfer 39
- " of stocks or funds which now are, or by any Act or Acts of Parliament " shall hereafter be made transferrable at the Bank of England, or for " the transfer of any part of the capital stock of the Governor and " Company of the Bank of England, called Bank Stock, or for the transfer of any part of the capital stock, or any stocks or funds under the " management of the South Sea Company, or for the transfer of any " part of the capital stock of the East India Company, or for the receipt " of dividends upon any of such stocks or funds ;" and an Act passed
- 41 Geo. 3. U. K. c. 39. in the forty-first year of the same reign, intituled, " An Act for the more " effectually preventing the forgery of Bank notes, Bank bills of exchange, " and Bank post bills ;" and an Act passed in the same year, intituled,
- 41 Geo. 3. c. 57. " An Act for the better prevention of the Forgery of the Notes and " Bills of exchange of persons carrying on the business of bankers ;" and

and so much of an Act passed in the forty-third year of the same reign,
intituled, " An Act for the preventing the forging and counterfeiting
" of Foreign Bills of Exchange, and of Foreign Promissory Notes and
" Orders for the Payment of Money, and for preventing the Counter-
" feiting of Foreign Copper Money," as in anywise relates to any
foreign bill of exchange or foreign promissory note, undertaking or order
40 for the payment of money ; and an Act passed in the forty-fifth year of
the same reign, intituled, " An Act to alter and extend the Provisions
" of the Laws now in force for the Punishment of the Forgery of Bank
" Notes, Bills of Exchange and other Securities, to every part of Great
" Britain ;" and so much of an Act passed in the forty-eighth year of
the same reign, intituled, " An Act for regulating the issuing and pay-
" ing off of Exchequer Bills," as relates to any Forgery or other capital
felony therein mentioned ; and an Act passed in the fifty-second year of
the same reign, intituled, " An Act for the further Prevention of the
" Counterfeiting of Silver Tokens issued by the Governor and Com-
" pany of the Bank of England, called Dollars, and of Silver Pieces
" issued and circulated by the said Governor and Company, called
" Tokens, and for the further Prevention of Frauds practised by the
" Imitation of the Notes or Bills of the said Governor and Company ;"
and so much of an Act passed in the same year, intituled, " An Act for
" the better regulating and preserving Parish and other Registers of
41 " Births, Baptisms, Marriages and Burials in England " as relates to
any felony therein mentioned ; and so much of an Act passed in the
fourth year of the ⁽⁸⁾ reign of his late Majesty King George the Fourth,
intituled, " An Act for amending the Laws respecting the Solemnization
" of Marriages in England," as relates to any person who shall know-
ingly and wilfully insert in the Register Book any false entry of any
matter relating to any marriage, or shall falsely make, alter, forge or
counterfeit any such entry in the register, or any license of marriage, or
shall utter or publish as true any false, altered, forged or counterfeited
register of marriage, or a copy thereof, or any false, altered, forged or
counterfeited license of marriage, knowing such register or license of
marriage respectively to be false, altered, forged or counterfeited, or shall
wilfully destroy any register book of marriages or any part thereof, or
shall cause or procure or assist in the commission of any of the said
several offences ; shall continue in force until and throughout the
⁽⁹⁾ Twentieth day of ⁽¹⁰⁾ July in the present year, and shall from and after
that day, as to that part of the United Kingdom called England, be re-
42 pealed, except so far as any of the said Acts may repeal the whole or
any part of any other Acts, and except as to offences committed
before or upon the said ⁽¹¹⁾ Twentieth day of ⁽¹²⁾ July, which shall be dealt
with

43 Geo. 3. c. 130.
s. 1 & 2.

45 Geo. 3. c. 89.

48 Geo. 3. c.1. s. 9.

52 Geo. 3. c. 138.

52 Geo. 3. c. 146.
s. 14.

4 Geo. 4. c. 76. s. 29.

Offences committed
previous to the
Repeal may be
tried under the old
Acts after the
Repeal.

| | | |
|--------------------------|-----------------------|------------------------|
| (⁸) present | (⁹) last | (¹⁰) June |
| (¹¹) last | | (¹²) June |
| 666. | E 2 | |

Proviso.

with and punished as if this Act had not been passed : Provided always, That if any person who shall before or upon the said ⁽¹³⁾ *Twentieth* day of ⁽¹⁴⁾ *July* have committed any offence against any of the several Acts hereby repealed as aforesaid, shall after the commencement of this Act be convicted of the same, and such offence shall have been made punishable with death by any of the said several Acts, but shall not be made punishable with death by this Act, in every such case the person convicted of such offence shall not suffer the punishment of death, but shall in lieu thereof be liable, at the discretion of the Court, to be transported beyond the seas for Life, or for any term not less than Seven years, or to be imprisoned, with or without hard labour, for any term not exceeding Four years nor less than Two years.

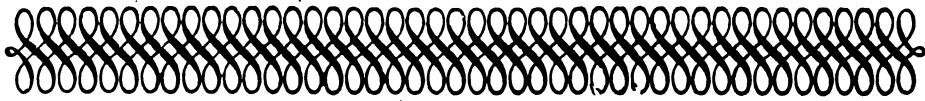
Commencement
of this Act.

And be it Enacted, That this Act shall commence and take effect on the *Twenty-first* day of July in the present year.

⁽¹³⁾ last

⁽¹⁴⁾ June

5 March 1830.



(Ireland.)

A

B I L L

For consolidating and amending the Laws relative to Jurors and Juries in Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WH ~~H E R E A S~~ the Laws relative to the qualifications and summoning of Jurors and the formation of Juries in Ireland are numerous and complicated, and it is expedient to consolidate and simplify the same, and to alter the mode of striking Special Juries, and in some respects to amend the said Laws; ~~B E~~ *it therefore Enacted* by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **T**HAT every man, except as hereinafter excepted, between the ages of *Twenty-one* years and *Sixty* years, residing in any county in Ireland, who shall have in his own name or in trust for him, within the same county, *Ten* pounds by the year above reprises in lands or tenements, or in rents issuing out of any lands or tenements, or in lands tenements and rents taken together, in fee simple, fee tail, or for the life of himself or some other person or persons, or who shall have within the same county *Fifteen* pounds by the year above reprises in lands or tenements held by lease or leases for an absolute term of not less than *Twenty-one* years, of which *fifteen* years at the least shall be unexpired, or for any term of years determinable on any life or lives, shall be qualified and shall be liable to serve on Juries for the trial of all issues joined in any of the King's Courts of Record in Dublin, and in all Courts of Assize, Nisi Prius, Oyer and Terminer and Gaol Delivery, such issues being respectively triable in the county in which every man so qualified respectively shall reside, and shall also be qualified and liable to serve on

Preamble:

1.
Age and Qualification of Jurors in Ireland in Superior Courts, Assizes, and Sessions of the Peace.
6 Geo. IV. c. 50. § 1.
[See Irish Acts 10 Car. 1. s. 2. c. 13. § 1. 12 Geo. 1. c. 4. § 16. 29 Geo. 2. c. 6. § 1. 1 Geo. 3. c. 17. § 9. 13, 14 Geo. 3. c. 41. § 1.]

Grand Juries in Courts of Sessions of the peace, and on Petty Juries for the trial of all issues joined in such Courts of Sessions of the peace, and triable in the county in which every man so qualified respectively shall reside.

2.
Exemptions
from serving
on Juries.
6 Geo. IV.
c. 50. § 2.
[See Irish Acts
6 Geo. 1.
c. 5. § 11.
23, 24 Geo. 3.
c. 17. § 35.
26 Geo. 3.
c. 14. § 71.
31 Geo. 3.
c. 34.
35 Geo. 3.
c. 28. § 35.]

Provided always, and be it further Enacted, That all Peers, all Judges of the King's Courts of Record in Dublin; all clergymen in holy orders; all persons who shall teach or preach in any congregation of Protestant Dissenters whose place of meeting is duly registered, and who shall follow no secular occupation except that of a schoolmaster, producing a certificate of some Justice of the peace of their having taken the oaths and subscribed the declaration required by law; all serjeants and barristers at law actually practising; all assistant barristers, all judges of ecclesiastical courts, all advocates in ecclesiastical courts or in courts of the civil law actually practising; all attornies, solicitors and proctors duly admitted in any court of law or equity, or of ecclesiastical or admiralty jurisdiction in which attornies solicitors and proctors have usually been admitted, actually practising and having duly taken out their annual certificates; all officers of any such courts, or of any court of criminal jurisdiction, actually exercising the duties of their respective offices; all public notaries duly admitted; all coroners, gaolers, and keepers of houses of correction; all members and licentiates of the King and Queen's College of Physicians in Ireland actually practising, and all other physicians actually practising; all surgeons being members of one of the Royal Colleges of Surgeons in London, Edinburgh or Dublin, and actually practising; all apothecaries certificated by the Court of Examiners of the Governor and Company of the Apothecaries Hall of the city of Dublin, and actually practising; all officers in His Majesty's Navy or Army on full pay; all officers of customs and excise; all sheriffs officers, high constables, police constables and parish clerks; all postmasters general and their deputies, and all other persons employed and acting in the service of His Majesty's Post-office; all treasurers, inspectors of grand jury accounts, secretaries of grand juries, and collectors of baronies, shall be and are hereby absolutely freed and exempted from being returned and from serving upon any juries or inquests whatsoever, and shall not be inserted in the lists to be prepared by virtue of this Act as hereinafter mentioned: Provided also, That all persons exempt from serving upon Juries in any of the courts aforesaid by virtue of any prescription, charter, grant or writ, shall continue to have and enjoy such exemption in as ample a manner as before the passing of this Act, and shall not be inserted in the lists hereinafter mentioned.

3.
Aliens disqualified, except on Juries de medietate; Convicts or

Provided also, and be it Enacted and Declared, That no man, not being a natural-born subject of the King, is or shall be qualified to serve on Juries or Inquests, except only in cases hereinafter expressly provided

provided for; and no man who hath been or shall be attainted of any treason or felony, or convicted of any crime that is infamous, unless he shall have obtained a free pardon, nor any man who is under outlawry by virtue of any criminal process, or under excommunication, is or shall be qualified to serve on Juries or Inquests in any court, or on any occasion whatsoever.

Outlaws, &c.
disqualified.
6 Geo. IV.
c. 50. § 3.

And be it further Enacted, That the clerk of the peace in every county in Ireland shall within the *first week of July* in every year issue and deliver his precept (in the form set forth in the Schedule hereunto annexed, or as near thereto as may be) to the collector or collectors of grand jury or county cess in each barony, half barony or other district of collection, requiring such collectors respectively to prepare and make out before the *first day of September* then next ensuing a true list of all men residing within their respective districts qualified and liable to serve on Juries according to this Act as aforesaid, and also to perform and comply with all other the requisitions in the said precepts contained.

4.
Clerk of the
peace to issue
Precept to
Collectors of
Grand Jury
Cess in July.
6 Geo. IV.
c. 50. § 4.
[See Irish Act,
36 Geo. 8.
c. 55. § 24,
28, 48.
and Act
4 Geo. IV.
c. 33. § 17.]

And be it further Enacted, That every such clerk of the peace shall cause a sufficient number of precepts and returns to be printed according to the several forms set forth in the Schedule marked (A.) hereunto annexed, at the expense of the county, and shall annex to every precept a competent number of returns for the use of the respective persons by whom such returns are to be made.

5.
Clerk of the
peace to an-
nex printed
Forms of Re-
turns to his
Precepts.
6 Geo. IV.
c. 50. § 5.

Provided always, and be it further Enacted, That where in any barony, half barony or other district of collection, there shall be more than one such collector, in such case the clerk of the peace shall issue and deliver his precept to every one of such collectors, each of whom shall be individually liable for the due performance of the several matters commanded in such precept throughout the whole of such barony, half barony or other district, and shall for the non-performance thereof be subject to all and every the penalties by this Act imposed upon any such collector.

6.
Where there
are several
Collectors,
each to be re-
sponsible for
the Duties re-
quired by this
Act through-
out the whole
Barony.
6 Geo. IV.
c. 50. § 6.

And be it further Enacted, That the collector or collectors of the grand jury or county cess shall forthwith after the receipt of such precept from the clerk of the peace prepare and make out in alphabetical order a true list of every man residing within their respective districts of collection, who shall be qualified and liable to serve on Juries as aforesaid, with the christian and surname written at full length, and with the true place of abode, the title, quality, calling or business, and the nature of the qualification of every such man, in the proper columns of the form of return set forth in the Schedule marked (B.) hereunto annexed.

7.
Collector of
County Cess
shall make out
alphabetical
List of Persons
liable to serve
on Juries, with
Residences,
&c.
6 Geo. IV.
c. 50. § 8.

8.
Lifts to be
fixed on
Church Doors,
and also kept
by Collectors
for Inspection.
6 Geo. IV.
c. 50. § 9.

And be it further Enacted, That every such collector, having made out according to this Act a list of every man within his district qualified and liable to serve on Juries as aforesaid, shall on the *Three first Sundays* in the month of *September* fix a true copy of such list upon the principal door of every church, chapel, and other public place of religious worship within his district, having first subjoined to every such copy a notice, stating that all objections to the list will be heard by the Justices of the peace, at a time and place to be mentioned in such notice, and having also signed his name at the foot of such copy, and shall likewise keep the original list, or a true copy thereof, to be perused by any one of the inhabitants of his district, at any reasonable time during the *three first weeks* of the month of *September*, without any fee or reward, to the end that notice may be given of men qualified who are omitted, or of men inserted who ought to be omitted out of such list; and the collectors of the county cess are hereby authorized to cause a sufficient number of copies of such lists for the purposes aforesaid to be printed, the expense whereof shall be raised by presentment by the grand jury of each county respectively.

9.
Petty Sessions
to be held in
the last week
of September.

Lifts to be
there pro-
duced, con-
sidered, re-
formed and
allowed.
6 Geo. IV.
c. 50. § 10.

Petty Sessions
not to alter
any List with-
out Notice to
the Party to
be affected by

And be it further Enacted, That the Justices of the peace in every county in Ireland shall hold a special petty sessions for the purposes herein mentioned, within the last *Seven days of September* in every year, on some day and at some place of which notice shall be given before the *Twentieth day of August* next preceding to such collectors as aforesaid within such county; and which collectors shall then and there produce the list of men qualified and liable to serve on Juries as aforesaid within their respective districts by them prepared and made out as hereinbefore directed, and shall answer upon oath such questions touching the same as shall be put to them or any of them by the Justices then present; and if any man not qualified, or any man not liable to serve on Juries as aforesaid is inserted in any such list, it shall be lawful for the said Justices, upon satisfaction from the oath of the party complaining, or other proof, or upon their own knowledge, that he is not qualified and liable to serve on Juries, to strike his name out of such list, and also to strike thereout the names of men disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body, from serving on Juries; and it shall also be lawful for such Justices to insert in such list the name of any man omitted, and who ought to be inserted therein, and likewise to reform any errors or omissions which shall appear to them to have been committed in respect to the name, place of abode, title, quality, calling, business, or the nature of the qualification of any man included in any such list: Provided always, That no man's name, if originally omitted, shall be inserted in such list; nor shall any error or omission in the description of any man in such list be reformed by the said Justices, unless upon the application of such men respectively, or unless such men

men respectively shall have had notice that an application for such purpose would be made to the Justices at such petty sessions, or unless the said Justices at such sessions or any *Two* of them shall cause notice to be given to such men respectively, requiring them to show cause at some adjournment of such petty sessions to be holden within *Four* days thereafter, why their names should not be inserted in such list, or why any error or omission in the description of such men in such list should not be reformed; and when every such list shall be duly corrected at such sessions, or at such adjournment thereof, it shall be allowed by the Justices present, or *Two* of them, at such sessions or such adjournment, who shall sign the same, with their allowance thereof; and the presiding Justice at such sessions shall deliver every such list so allowed, to the clerk of the peace of such county, to be kept among the records of such county.

the Alterations.

6 Geo. IV.
c. 50. § 10.

Power of Adjournment.

And be it further Enacted, That the clerk of the peace shall cause the lists so delivered as aforesaid to be deposited among the records of the county, having first arranged the same with every barony and half barony in alphabetical order, and such clerk of the peace shall cause the same to be fairly and truly copied in the same order, in a book to be by him provided for that purpose at the expense of the county, with proper columns for making the register hereinafter directed, and shall deliver the same book to the sheriff of the county, or his under-sheriff, within *Six* weeks next after the delivery of such lists to the said clerk of the peace as aforesaid, which book shall be called "The Jurors Book, for the year (inserting the calendar year for which such book is to be in use,) and that every sheriff, on quitting his office, shall deliver the same to the succeeding sheriff; and that every Jurors book so prepared shall be brought into use on the *first* day of *January* after it shall be so delivered by the clerk of the peace to the sheriff or his under-sheriff, and shall be used for one year then next following.

Lifts, after Allowance, to be delivered to Clerk of the Peace.

10.
Clerk of the Peace shall cause Lifts so delivered, to be kept among the Records of the County, and copied into a Book, to be delivered to Sheriff.
6 Geo. IV.
c. 50. § 12.

Book to be called the "Jurors Book."

Sheriff to deliver it to his Successor.

To be used for one Year, from 1st January.

And be it further Enacted, That every writ of *Venire Facias Juratores* for the trial in any county at large of any issue whatsoever, whether civil or criminal, or on any penal statute in any of the courts hereinbefore mentioned, shall direct the sheriff of such county to return *Twelve* good and lawful men of the body of his county, qualified according to law, and the rest of the writ shall proceed in the accustomed form; and that every precept to be issued for the return of Jurors before courts of oyer and terminer, gaol delivery, and sessions of the peace in Ireland, shall in like manner direct the sheriff to return a competent number of good and lawful men of the body of his county, qualified according to law, and shall not require the same to be returned from any particular venue within the county, any law custom or usage to the contrary notwithstanding.

11.
Form of *Venire Facias*.
6 Geo. IV.
c. 50. § 13.

And of Precept for Jurors at Gaol Deliveries, and Sessions of the Peace.

12.

Juries to be
returned from
Jurors Book
by Sheriff, and
by Coroners
and Elifors.

6 Geo. IV.
c. 50. § 14.

And be it further Enacted, That every sheriff, upon the receipt of every such writ of Venire Facias and precept for the return of Jurors, shall return the names of men contained in the Jurors book for the then current year, and no others; and that where process for returning a Jury for the trial of any of the issues aforesaid shall be directed to any coroner, elisor, or other minister, he shall have free access to the Jurors book for the current year, and shall in like manner return the names of men contained therein, and no others: Provided always, That if there shall be no Jurors book in existence for the current year, it shall be lawful to return Jurors from the Jurors book for the year preceding; and that if it shall happen that any person not in the Jurors book shall be returned, and any trial shall proceed, and verdict be found, without any objection to any such person as a Juror, such trial shall not be deemed a mis-trial, nor shall the verdict thereon be impeached or questioned on account of the return of such Juror.

o

13.

Return of Ju-
rors shall be
made impar-
tially, at least
four out of
each Barony.

And be it further Enacted, That the return of the names of men contained in the Jurors book shall be made without favour or partiality, and that in every such return the names of *Four* such men at least shall be returned from each and every barony in the county, or from not less than *Three* of such baronies; and that the names of not less than *four* of such men shall be returned from each and every barony in the county at least once in every year: Provided always, That the return of the names of Jurors before any court of sessions of the peace shall be made only from the baronies within the district for which such court of sessions shall be assembled.

Not to extend
to Sessions Ju-
ries beyond
the District of
the Sessions.

14.

Sheriff, &c. on
Return of
Writs of
Venire Facias,
to annex a
Panel of Ju-
rors, &c.

6 Geo. IV.
c. 50. § 15.
[See Irish Act,
29 Geo. 2.
c. 6. § 3.]

And be it further Enacted, That every sheriff or other minister to whom the return of Juries for the trial of issues before any court of assize or nisi prius in any county of Ireland may belong, shall upon his return of every writ of Venire Facias (unless in causes intended to be tried at bar, or in cases where a special Jury shall be struck by order or rule of court) annex a panel to the said writ, containing the names alphabetically arranged, together with the places of abode and additions of a competent number of Jurors named in the Jurors' book; and that the names of the same Jurors shall be inserted in the panel annexed to every Venire Facias for the trial of all issues at the same assizes or sessions of nisi prius in such county, which number of Jurors shall not in any county be less than *Thirty-six* nor more than *Sixty*, unless by the direction of the Judges appointed to hold the assizes or sessions of nisi prius in the same county, or one of them, who are and is hereby empowered, by order under their or his hands or hand, to direct a greater or lesser number, and then such number as shall be so directed shall be the number to be returned; and such Jury so returned shall be competent to try all the issues at that assizes or session of nisi prius, and that in the writ of Habeas Corpora Juratorum or Distringas subsequent to such writ

writ of Venire Facias, it shall not be requisite to insert the names of all the Jurors contained in such panel, but it shall be sufficient to insert in the mandatory parts of such writs respectively, "The bodies of the several persons in the panel to this writ annexed named," or words of the like import, and to annex to such writs respectively panels containing the same names as were returned in the panel to such Venire Facias, with their places of abode and additions; and that for making the returns and panels aforesaid, and annexing the same to the respective writs, the legal fee, and no other, shall be taken; and that the men named in such panels, and no others, shall be summoned to serve on Juries at the then next court of assizes or session of nisi prius for the respective counties named in such writs.

And be it further Enacted, That if any plaintiff or demandant in any cause which shall be at issue in any of his Majesty's Courts of Record at Dublin, or any defendant in any action of Quare impedit or Replevin which shall be so at issue, shall sue out any writ of Venire Facias upon which any writ of Habeas Corpora or Distringas with a nisi prius shall issue, in order to the trial of the said issue at the assizes or sessions of nisi prius in any county at large, and shall not proceed to trial at the first assizes or sessions of nisi prius for such county after the teste of such writ of Habeas Corpora or Distringas, then and in every such case (except when a View by Jurors shall be directed as hereinafter mentioned) such plaintiff, demandant or defendant, whensoever he or she shall think fit to try the said issue at any other assizes or sessions of nisi prius for such county, shall sue forth a new writ of Venire Facias commanding the sheriff to return anew *Twelve* good and lawful men of the body of his county, qualified according to law, and the rest of the writ shall proceed in the accustomed manner; which writ being duly returned, a writ of Habeas Corpora or Distringas with a nisi prius shall issue thereupon (for which the same fees shall be paid as in the case of the *Pluries* Habeas Corpora or Distringas with a nisi prius) upon which such plaintiff, demandant or defendant shall and may proceed to trial as lawfully and effectually to all intents and purposes as if no former writ of Venire Facias had been prosecuted in that cause, and so toties quoties as the case shall require; and if any defendant or tenant in any action depending in any of the said courts shall be minded to bring to trial in any county at large any issue joined against him, where by the practice of the court he may do the same by proviso, he shall or may of the issuable term next preceding such intended trial to be had at the next assizes or sessions of nisi prius of such county, sue out a new Venire Facias to the sheriff or other officer having the return of such process, in the form aforesaid by proviso, and prosecute the same by writ of Habeas Corpora or Distringas with a nisi prius, as lawfully and effectually to all intents and purposes as if no former writ of Venire Facias had been sued out or returned in that cause, and so toties quoties, as the matter shall require.

108.

And

15.
If Plaintiff
sue forth a
Venire, &c. in
order to Trial,
and proceed
not, he may
afterwards sue
forth another
Venire, &c.
and try it at
any subse-
quent Assizes.
6 Geo. IV.
c. 50. § 16.

Defendant
may do the
same.

16.
Copy of the
Panel to be
kept in the
Sheriff's Of-
fice, for the
Inspection of
the Parties,
and their
Attornies.
6 Geo. IV.
c. 50. § 19.

And be it further Enacted, That the sheriff or other minister to whom the return of Jurors for the trial of causes in any county in Ireland may belong, shall cause to be made out an alphabetical list of the names of all the Jurors contained in the panels to the several writs of Venire Facias annexed as aforesaid, with their respective places of abode and additions ; and every such sheriff or other minister shall keep such list in the office of his under-sheriff or deputy, for *Seven* days at least before the sitting of the next court of assize or nisi prius ; and the parties in all causes to be tried at any such court of assize or nisi prius, and their respective attornies, shall on demand have full liberty to inspect such lists without any fee or reward to be paid for inspection.

17.
Proviso for
Powers of
Courts in Cri-
minal Cases
for returning
Juries as here-
tofore.
6 Geo. IV.
c. 50. § 20.

Provided always, and be it further Declared and Enacted, That nothing herein contained shall be construed to prevent the court of King's Bench, or any court of oyer and terminer, gaol delivery, or court of sessions of the peace, from respectively having and exercising the same power and authority as they may now have and exercise, in issuing any writ or precept, or in making any award or order, orally or otherwise, for the return of a Jury for the trial of any issue before any of such courts respectively, or for the amending or enlarging the panel of Jurors returned for the trial of any such issue ; and the return to every such writ, precept, award or order, shall be made in the manner heretofore used and accustomed in such courts respectively; save and except that the Jurors shall be returned from the body of the county, and not from any hundred or hundreds, or from any particular venue within the county, and shall be qualified according to this Act.

18.
Where Jurors
are to view
Lands, &c.
Court may
order special
Writs of
Venire Facias,
Distringas or
Habeas Cor-
pora.
6 Geo. IV.
c. 50. § 23.
[See Irish Acts,
6 Anne,
c. 10. § 8.
29 Geo. 2,
c. 6 § 7.]

And be it further Enacted, That where in any case, either civil or criminal, or on any penal statute depending in any of the said courts of record in Dublin, it shall appear to any of the respective courts, or to any Judge thereof in vacation, that it will be proper and necessary that the Jurors or some of the Jurors who are to try the issue in such case should have the View of the place in question, in order to their better understanding the evidence that may be given upon the trial of such issues, in every such case such Court or any Judge thereof in vacation may order a rule to be drawn up containing the usual terms, and also requiring, if such Court or Judge shall so think fit, the party applying for the View to deposit in the hands of the under-sheriff a sum of money to be named in the rule, for payment of the expenses of the View, and commanding special writs of Venire Facias, Distringas, or Habeas Corpora to issue, by which the sheriff or other minister to whom the said writs shall be directed, shall be commanded to have *Six* or more of the Jurors named in such writs or in the panels thereunto annexed (who shall be mutually consented to by the parties, or if they cannot agree, shall be nominated by the proper officer of the respective courts of King's Bench, Common Pleas or Exchequer at Dublin, for the causes

causes in their respective courts) at the place in question, some convenient time before the trial, who then and there shall have the place in question shown to them by *Two* persons in the said writs named, to be appointed by the Court or Judge ; and the said sheriff or other minister who is to execute any such writ, shall by a special return upon the same certify that the View hath been had according to the command of the same, and shall specify the names of the viewers.

And be it further Enacted, That where a View shall be allowed in any case, those men who shall have had the View, or such of them as shall appear upon the Jury to try the issue, and shall not be challenged off, shall be first sworn ; and so many only shall be added to the viewers who shall appear, as shall after all defaulters and challenges allowed make up a full Jury of *Twelve*.

19.
Viewers, in case of Appearance, to be sworn upon the Jury first.
6 Geo. IV. c. 50. § 24.
[See Irish Acts, 29 Geo. 2. c. 6. § 7.]

And be it further Enacted, That the summons of every man to serve on any Jury, common or special, in any of the courts aforesaid, shall be made by the proper officer *Four* days at least before the day on which the Juror is to attend, by showing to the man to be summoned, or in case he shall be absent from the usual place of his abode, by leaving with some person there inhabiting, a note in writing under the hand of the sheriff or other proper officer, containing the substance of such summons.

20.
Jurors to be summoned Six Days before Day of Attendance.
6 Geo. IV. c. 50. § 25.
[See Irish Acts, 29 Geo. 2. c. 6. § 2. 17, 18 Geo. 3. c. 45. § 4. 7.]

And be it further Enacted, That the name of each man who shall be summoned and impanelled in any court of assize or nisi prius, with the place of his abode and addition, shall be written on a distinct piece of parchment or card, such pieces of parchment or card being all as nearly as may be of equal size, and shall be delivered unto the clerk of the Judge of assize of nisi prius who is to try the cause by the under-sheriff of the county or other officer returning the process, and shall by direction and care of such clerk be put together in a box to be provided for that purpose ; and when any issue shall be brought on to be tried, such clerk shall in open court draw out *Twelve* of the said parchments or cards one after another, or in cases where any View shall have been directed and had as aforesaid, so many as, together with the viewers who shall appear and be sworn, shall be sufficient to make up the number of *Twelve* ; and if any of the men whose names shall be so drawn shall not appear, or shall be challenged and set aside, then such further number, until *Twelve* men, or such other number as, together with such viewers so appearing and sworn as aforesaid, shall make up the number of *Twelve*, be drawn, who shall appear, and who after all just causes of challenge allowed shall remain as fair and indifferent, and the said *Twelve* men, their names being marked in the panel and they being sworn, shall be the Jury to try the issue ; and the names of the men so drawn and sworn shall be kept apart by themselves until such

21.
Names of Jurors to be delivered to Clerk of Judge of Assize, and ballotted for Juries in Civil Courts.
6 Geo. IV. c. 50. § 26.
[See Irish Act, 29 Geo. 2. c. 6. § 4.]

Jury shall have given in their verdict, and the same shall be recorded, or until such Jury shall, by the consent of the parties or by leave of the court, be discharged, and then the same names shall be returned to the box, there to be kept with the other names remaining at that time undrawn, and so toties quoties as long as any issue remains to be tried : 5

Where the Jury have not brought in their Verdict, Twelve others to be drawn. [See Irish A&T, 29 Geo. 2. c. 6. § 5.]

Provided always, That if any issue shall be brought on to be tried in any of the said courts, before the Jury in any other issue shall have brought in their verdict or been discharged, it shall be lawful for the court to order *Twelve* of the residue of the said parchments or cards, not containing the names of any of the Jurors who shall not have so brought 10 in their verdict or been discharged, to be drawn in such manner as is aforesaid for the trial of the issue which shall be so brought on to be tried : Provided also, That where both parties shall consent thereto, it shall be lawful for the court to try any issue with the same Jury that shall have previously tried or been drawn to try any other issue, without 15 their names being returned to the box and re-drawn, or to order the name or names of any man or men on such Jury whom both parties may consent to withdraw, or who may be justly challenged or excused by the court, to be set aside, and another name or other names to be drawn from the box, and to try the issue with the residue of such original Jury, 20 and with such man or men whose name or names shall be so drawn, and who shall appear and be approved as indifferent, and so toties quoties as long as any issue remains to be tried.

22.
Want of Qualification in common Jurors to be cause of Challenge. 6 Geo. IV. c. 50. § 27.
[See Irish A&T, 29 Geo. 2, c. 6. § 1. 10 Car. 1. st. 2. c. 13. § 1. 33 H. 8. st. 1. c. 4.]

And be it further Enacted, That if any man shall be returned as a Juror for the trial of any issue in any of the courts hereinbefore mentioned, who shall not be qualified according to this Act, the want of such qualification shall be good cause of challenge, and he shall be discharged upon such challenge, if the court shall be satisfied of the fact ; and that if any man returned as a Juror for the trial of any such issue shall be qualified in other respects according to this Act, the want 30 of freehold shall not be accepted as good cause of challenge, either by the Crown or by the party, nor as cause for discharging the man so returned, upon his own application ; any law custom or usage to the contrary notwithstanding ; provided that nothing herein contained shall extend in anywise to any Special Juror. 35

Not to extend to Special Jurors.

23.
No Challenges for want of a Knight. 6 Geo. IV. c. 50. § 28.
[See Irish A&T, 25 Geo. 3. c. 31. 34 Geo. 3. c. 23. § 4.]

And be it further Enacted, That no challenge shall be taken to any panel of Jurors for want of a knight's being returned in such panel, nor any array quashed by reason of any such challenge ; any law custom or usage to the contrary notwithstanding.

24.
A&T not to affect Irish A&T, 33 H. 8. st. 1. c. 4. 7 Wil. 3. c. 8. as to Consanguinity.

Provided always, and be it Enacted, That nothing in this Act contained shall in anywise be construed or deemed to repeal alter or affect 40 an Act made in the first session of the thirty-third year of the reign of his late Majesty King Henry the Eighth, intituled, " An Act that consanguinity

“ sanguinity or affinity, being not within the fifth degree, shall be no
 “ principal Challenge;” or an Act made in the Parliament of Ireland
 in the seventh year of the reign of King William the Third, intituled,
 “ An Act for redress of Inconveniences for want of proof of the Decease
 5 “ of Persons beyond the Seas or absenting themselves, upon whose
 “ lives Estates do depend.”

And be it further Enacted and Declared, That it is and shall be
 lawful for His Majesty's Courts of King's Bench, Common Pleas, and
 Exchequer in Ireland respectively, upon motion made on behalf of the
 10 King, or upon the motion of any prosecutor, relator, plaintiff or demand-
 ant, or of any defendant or tenant in any case whatsoever, whether civil
 or criminal, or on any penal Statute, excepting only indictments for
 treason or felony, depending in any of the said courts, and the said
 Courts and Judges respectively are hereby authorized in any of the
 15 cases before mentioned to order and appoint a Special Jury to be
 struck before the proper officer of each respective court, for the trial
 of any issue joined in any of the said cases and triable by a jury, in
 such manner as hereinafter directed for the striking of Special Juries;
 and every Jury so struck shall be the Jury returned for the trial of such
 20 issue.

25.
 Court to have
 the Power of
 ordering Spe-
 cial Juries to
 be struck be-
 fore the pro-
 per Officer.
 6 Geo. IV.
 c. 50. § 30.
 [See Irish Act,
 17, 18 Geo. 3.
 c. 45.
 and Act
 6 Geo. IV.
 c. 51. § 1.]

And be it further Enacted, That when the List of Persons liable and
 qualified to serve on Juries shall be produced to the Justices assembled
 at petty sessions as hereinbefore directed, such Justices shall at such
 petit sessions prefix the letter (X) to the names of all such persons
 25 as they shall think qualified to serve upon Special Juries; and the sheriff
 of every county and his under-sheriff shall, within *Ten* days after the
 delivery of the Jurors book for the current year to either of them, take
 from such book the names of all men to whose names the said let-
 ter (X) shall be so prefixed, and shall respectively cause the names of
 30 all such men to be fairly and truly copied out in alphabetical order,
 together with their respective places of abode and additions in a sepa-
 rate list, to be subjoined to the Jurors book, which list shall be called
 “ The Special Jurors List,” and shall prefix to every name in such list
 its proper number, beginning the numbers from the first name, and
 35 continuing them in a regular arithmetical series down to the last name,
 and shall cause the said several numbers to be written upon distinct
 pieces of parchment or card, being all as nearly as may be of equal
 size, and after all the said numbers shall have been so written, shall
 put the same together in a separate drawer or box, and shall there
 40 safely keep the same, to be used for the purpose hereinafter mentioned.

26.
 Justices at
 Petty Sessions
 shall prefix
 Letter (X) to
 Names of Per-
 sons qualified
 to serve on
 Special Juries,
 of which a
 List shall be
 made, and a
 Number pre-
 fixed to each
 Name, and
 each Number
 written on a
 separate Card,
 and put into
 a Box.
 6 Geo. IV.
 c. 50, § 31.

And be it further Enacted, That whenever any of the Courts or
 Judges above mentioned shall order a Special Jury to be struck before
 108.

27.
 Officer of
 Court is to
 appoint the
 Time and
 Place for no-

minating the
Special Jury.
6 Geo. IV.
c. 50. § 32.

Under-sheriff,
or his Agent,
to attend the
Officer with
the Special
Jurors List,
and all the
Numbers.

Officer to put
all the Num-
bers into a
Box, and to
draw out
Forty-eight,
and to check
them with the
Numbers and
Names in the
List.

And to deliver
a List of the
Forty-eight
Names to each
Party, to be
reduced as
heretofore.

the proper officer of such court, such officer shall appoint a time and place for the nomination of such Special Jury ; and a copy of the rule of court and of such officer's appointment shall be served on the sheriff or under-sheriff of the county in which the trial is to be had, and also on all the parties who have usually been served with the same respectively in the accustomed manner ; and the said officer, at the time and place appointed, being attended by such sheriff or under-sheriff, or his agent, who are hereby respectively required to bring with them the Jurors book, and such Special Jurors list ; and all the numbers so written on distinct pieces of parchment or card as aforesaid, shall, in the presence of all the parties in any of the cases aforesaid, and of their attorneys if they respectively choose to attend, or if the said parties or their attorneys all or any of them do not attend, then in their absence put all the said numbers into a box, to be by him provided for that purpose, and after having shaken them together shall draw out of the said box *Forty-eight* of the said numbers one after another, and shall as each number is drawn refer to the corresponding number in the Special Jurors list, and read aloud the name designated by such number ; and if at the time of so reading any name, either party or his attorney shall object that the man whose name shall have been so referred to is in any manner incapacitated from serving on the said Jury, and shall also then and there prove the same to the satisfaction of the said officer, such name shall be set aside, and the said officer shall instead thereof draw out of the said box another number, and shall in like manner refer to the corresponding number in the said list, and read aloud the name designated thereby, which name may be in like manner set aside, and other numbers and names shall in every such case be resorted to, according to the mode of proceeding hereinbefore described for the purpose of supplying names in the places of those set aside, until the whole number of *forty-eight* names not liable to be set aside shall be completed ; and if in any case it shall so happen that the whole number of *forty-eight* names cannot be obtained from the Special Jurors list, then and in that case the said officer shall fairly and indifferently take, according to the mode of nomination heretofore pursued in nominating Special Juries, such a number of names from the general Jurors list as shall be required to make up the full number of *forty-eight* names, all and every of which *forty-eight* names shall in such case be equally deemed and taken to be those of Special Jurors ; and the said officer shall afterwards make out for each party a list of the *forty-eight* names, in the order in which they shall have been drawn as aforesaid, together with their respective places of abode and additions, and after having made out such list shall return all the numbers so drawn out, together with all the numbers remaining undrawn, to such sheriff or under-sheriff or his agent, to be by such sheriff or under-sheriff safely and securely kept for future use ; and all the subsequent proceedings for reducing the said list of *forty-eight*, and all other

other matters whatsoever relating to Special Juries, shall remain and continue in force as heretofore, except where the same or any part thereof is expressly altered by this Act; and all the fees heretofore payable on the striking of Special Juries shall continue to be paid in the
5 accustomed manner.

Provided always, and be it further Enacted, That nothing herein contained shall be construed to prevent the parties in any cause, or their attornies, from consenting to have a Special Jury nominated according to the mode used and accustomed before the passing of this Act; and
10 upon a consent to that effect, signed by each party or his attorney, being communicated to the proper officer, he is hereby authorized and required to nominate a Special Jury for the trial of every such cause according to the mode used and accustomed before the passing of this Act: Provided also, That nothing herein contained shall be construed to prevent
15 the same Special Jury, however nominated, from trying any number of causes, so as the parties in every such cause or their attornies shall have signified their assent in writing to the nomination of such Special Jury for the trial of their respective causes: Provided also, That it shall be lawful for the court, if it shall so think fit, upon the application of any
20 man who shall have served upon one Special Jury or more at any assizes or session of nisi prius, to discharge such man from serving upon any other Special Jury during the same assizes or session of nisi prius.

28.
The Parties may, by consent, have a Special Jury struck according to the ancient mode.
6 Geo. IV.
c. 50. § 33.

The same Special Jury may, by consent, try any number of Causes.

The Court may discharge any Man who has served as a Special Juror once during the same Assizes.

And be it further Enacted, That the person or party who shall
25 apply for a Special Jury, shall pay the fees for striking such Jury, and all the expenses occasioned by the trial of the cause by the same, and shall not have any further or other allowance for the same, upon taxation of costs, than such person or party would be entitled unto in case the cause had been tried by a common Jury, unless the Judge before whom
30 the cause is tried shall immediately after the verdict certify under his hand upon the back of the record that the same was a cause proper to be tried by a Special Jury.

29.
Costs of Special Jury.
6 Geo. IV.
c. 50. § 34.
[See Irish Acts,
17, 18 Geo. 3.
c. 45. § 5.
40 Geo. 3.
c. 72. § 6.]

And be it further Enacted, That no Juror who shall serve upon any Special Jury, shall be allowed or take for serving on any such Jury more
35 than such sum of money as the Judge or Judges who tries or try the issue shall think just and reasonable, and which shall not exceed the sum of *One pound one shilling*, except in causes wherein a View is directed and shall have been had by such Juror, and except in causes tried at bar in any of the superior courts of record in Dublin; in which
40 latter case the Jurors shall be allowed for serving on such Juries such sum as the Judge or Judges who shall try the cause shall think fit and reasonable.

30.
Fees to Special Jurors.
6 Geo. IV.
c. 50. § 35.
[See Irish Acts,
40 Geo. 3.
c. 72. § 17.]

108.

D

And

31.
Tales de Cir-
cumstantibus.

6 Geo. IV.
c. 50. § 37.

[See Irish Acts,
10 Car. 1.

ft. 2. c. 13. § 3.

29 Geo. 2.

c. 6. § 9.

17, 18 Geo. 3.
c. 45. § 9, 10.]

And be it further Enacted, That where a full Jury shall not appear before any court of assize or nisi prius in any criminal prosecution properly triable in such court, or in any suit or action, or where after appearance of a full Jury by challenge of any of the parties, the Jury is likely to remain untaken for default of Jurors, every such court, upon request made for the King by any one thereto authorized or assigned by the court in cases of such criminal prosecutions as aforesaid, or on request made by the parties, plaintiff or demandant, defendant or tenant, or their respective attornies in any action or suit, whether popular or private, shall command the sheriff or other minister to whom the making of the return shall belong, to name and appoint, as often as need shall require, *Twelve* other able men of the county then present, and the sheriff or other minister aforesaid shall at such command of the court, return *Twelve* such men duly qualified, who shall be present or can be found to serve on such Jury, and shall add and annex their names to the former panel; provided that where a Special Jury shall have been struck for the trial of any issue, the talesmen shall be such as shall be impanelled upon the common Jury panel to serve at the same court, if a sufficient number of such men can be found; and the names of the persons so to be named, with their additions and places of abode, shall be written on several distinct pieces of parchment or cards, being all as near as may be of equal size, and shall be delivered to the clerk of the Judge before whom such issue is to be tried, by the sheriff or other officer to whom the returning of such Jury shall belong, and shall by the direction and care of such clerk be rolled up all as near as may be in the same manner, and put together in a box or drawer, and some indifferent person, by direction of the court, in open court shall draw out such pieces of parchment or cards one after another, until a number shall appear which shall be sufficient with those of the original panel who appear to make up the number of *Twelve*, who shall be the Jury to try the said issue; and the King by any one so authorized or assigned as aforesaid, and all and every the parties aforesaid, shall and may in each of the cases aforesaid respectively have their respective challenges to the Jurors so added and annexed; and the court shall proceed to the trial of every such issue with those Jurors who were before impanelled, together with the talesman so newly added and annexed, as if all the said Jurors had been returned upon the writ or precept awarded to try the issue.

32.
1 Geo. 3. (I)
c. 17. § 10.

Issue as to
Tolls in Cities
shall be tried
by a Jury of
an indifferent
County.

AND whereas by an Act passed in the Parliament of Ireland in the first year of the reign of his late Majesty King George the Third, intituled, "An Act for reviving continuing and amending several temporary Statutes, and for other purposes therein mentioned," it is amongst other things enacted, "That no issue shall be tried by a Jury of any city, in any action or suit concerning any tolls duties or customs claimed

claimed by the corporation of such city, but that every such issue shall be tried by a Jury of an indifferent county, to be appointed by the court in which such action or suit shall depend :” AND whereas by an Act

6 Geo. IV.
c. 51 § 2.

- 5 His present Majesty’s reign, intituled, “ An Act for the amendment of
“ the Laws with respect to Special Juries, and to Trials in counties
“ of cities and towns, and towns corporate in Ireland,” it is amongst
other things enacted, “ That in every action, whether the same be
transitory or local, which shall be prosecuted or depending in any of
10 His Majesty’s courts of record in Dublin, and in every indictment
removed into His Majesty’s court of King’s Bench in Dublin by writ
of certiorari, and in every information filed by His Majesty’s attorney
or solicitor general in Ireland, or by leave of the Court of King’s Bench
in Ireland, and in all cases where any person or persons shall plead to
15 or traverse any of the facts contained in the return to any writ of
Mandamus in Ireland, if the venue in such action indictment or infor-
mation be laid in any county of a city, county of a town, or town cor-
porate within Ireland, or if such writ of Mandamus be directed to any
person or persons, or body politic or corporate in Ireland, it shall and
20 may be lawful for the court in which such action, indictment, infor-
mation or other proceeding shall be depending, at the prayer and
instance of any prosecutor or plaintiff, or of any defendant, to direct
the issue or issues joined in such action, indictment, information or
proceeding to be tried by a Jury of the county next adjoining to such
25 county of a city, county of a town, or town corporate, and to award pro-
per writs of Venire or Distringas accordingly, if the said court shall think
fit and proper so to do :” AND whereas it may be difficult in cases in
which corporations may be parties, to procure a Jury of suitable persons
in adjoining counties, who shall not be of kindred or affinity in some
30 collateral degree with some member of such corporation, or such degree
of kindred or affinity may be so remote as to be unknown to the sheriffs
or other officers who shall return the Jury to try such cases : AND
whereas it is expedient that persons returned on any such Jury should
not be liable to be challenged by either plaintiff or defendant for any
remote degree of collateral kindred or affinity with any member of such
35 corporation ; BE it therefore Enacted, That in any action or suit
instituted by or against any corporate body in Ireland, it shall not be
deemed, taken, allowed or admitted as a good cause or ground of chal-
lenge of any person returned as a Juror to try the issue in such action
40 or suit, that such person, so challenged, is of collateral kindred or
affinity with any member of such corporate body, unless such person
shall be either the brother, uncle, nephew or first cousin of some mem-
ber of such corporate body, or the brother, uncle, nephew or first cousin
of the wife of some member of such corporate body ; or unless some
member of such corporate body shall be the brother, uncle, nephew or
first cousin of the wife of such person so to be challenged : Provided

In Actions,
Indictments,
&c. in supe-
rior Courts,
where Venue
is tried in a
County of a
City, &c.
Court may
direct Issue to
be tried by
Jury of next
adjoining
County.

Jurors may
be distant
relations of
Corporators.

No cause of
Challenge for
collateral affi-
nity to a Cor-
porator al-
lowed, except
in case of a
Brother, Un-
cle, Nephew,
or First
Cousin, to
any Corpo-
rator, or his
Wife.

always, That nothing herein contained shall extend or be construed to extend to deprive any plaintiff or defendant in any such action or suit of any right of challenge of any person returned on any such Jury, for any other cause for which any such Juror might have been challenged before the passing of this Act.

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33.
On striking
Special Juries
in such cases,
time shall be
allowed for
inquiry as to
such Affinity,
and the Rela-
tion may be
set aside, and
another Spe-
cial Juror
named.

And be it further Enacted, That whenever an order shall be made in any such action or suit for a Special Jury to be struck, it shall and may be lawful to and for the proper officer of the court in which such action or suit shall be depending, after he shall in the usual manner have made out a list of *Forty-eight* persons, at the instance of the plain- 10
tiff or plaintiffs, or defendant or defendants in such action or suit, to allow to the party so applying such time as shall appear to such officer to be reasonable for the purpose of making inquiry respecting the several persons named in such list; and if it shall be made appear satisfactorily to such officer that any of the persons named in such list 15
shall be the brother, uncle, nephew or first cousin of any member of such corporate body, or the brother, uncle, nephew or first cousin of the wife of any member of such corporate body, or that any member of such corporate body shall be the brother, uncle, nephew or first cousin of the wife of any person named in such list, then such officer shall 20
strike out of such list the name or names of any and every such person, and the name or names of another or other person or persons shall be inserted in such list by the said officer; and such name or names of such person or persons may be set aside or struck out in like manner as if such name or names had been originally placed in such list as afore- 25
said, and in such case the names of other persons shall be resorted to for the purpose of supplying names in the places of those set aside or struck out, until the whole number of *Forty-eight* names of persons not objected to as liable to be struck out shall be completed; and the said officer shall afterwards make out for each party a list of such *Forty-* 30
eight names, together with the respective places of abode and additions of the persons; and all the subsequent proceedings for reducing the said list, and all other matters whatsoever relating to Special Juries, shall remain and continue in force; and in any such action or suit it shall not afterwards be deemed, taken, allowed or admitted as a cause 35
or ground of challenge of any of such persons, that any such person was of collateral kindred or affinity with any member of such corporate body.

34.
Fine on Ju-
rors making
Default.
6 Geo. IV.
c. 50. § 38.
[See Irish
Acts,
29 Geo. 2.
c. 6. § 6.
17, 18 Geo. 3.
c. 45, § 8.]

And be it further Enacted, That if any man, having been duly summoned to attend on any kind of Jury in any of the courts in this Act 40
mentioned, shall not attend in pursuance of such summons, or being thrice called shall not answer to his name, or if any such man, or any talesman, after having been called shall be present but not appear, or after his appearance shall wilfully withdraw himself from the presence of

471

of the court, the court shall set such fine upon every such man or talesman so making default (unless some reasonable excuse shall be proved by oath or affidavit) as the court shall think meet: Provided always, That where any viewer, having been duly summoned to attend on any
 5 Jury, shall make default as aforesaid, the court is hereby authorized and required to set upon such viewer (unless some reasonable excuse shall be proved as aforesaid) a fine to the amount of *Ten pounds* at the least, and as much more as the court, under the circumstances of the particular case, shall think proper.

10 And be it further Enacted, That every sheriff and other minister to whom the return of Juries shall belong, shall be and is hereby indemnified for impanelling and returning any man named in the Jurors' book, although he may not be qualified or liable to serve on Juries; and that if any sheriff or other such minister shall wilfully impanel
 15 and return any man to serve on any Jury before any of the courts hereinbefore mentioned (except on the Grand Jury at any assizes or sessions) such man's name not being inserted in the Jurors' book for the current year, or if such book has not been delivered, then in the Jurors' book last delivered, or if any Prothonotary, Judge's clerk, Clerk
 20 of the peace, or other officer of any of the courts in this Act mentioned shall wilfully record the appearance of any man so summoned and returned who did not really appear, in every such case the court shall and may, upon examination in a summary way, set such fine upon such Sheriff, Minister, Prothonotary, Judge's clerk, Clerk of the peace, or
 25 other officer offending, as the court shall think meet.

35.
 Sheriff indemnified in returning any person whose Name is in the List.

6 Geo. IV.
 c. 50. § 39.

If he returns One not in the List, or if the Clerk of Assize records Appearances when the Party did not appear, to be fined.

And be it further Enacted, That no sheriff, under-sheriff, coroner, elisor, bailiff or other officer or person whatsoever, shall directly or indirectly take or receive any money or other reward, or promise of money or reward, or any consideration whatsoever, or the promise of any con-
 30 sideration, to excuse any man from serving or from being summoned to serve on Juries, or under any such colour or pretence; and that no bailiff or other officer appointed by any sheriff, under-sheriff, coroner or elisor to summon Juries, shall summons any man to serve thereon, other than those whose names are specified in a warrant or mandate
 35 signed by such sheriff, under-sheriff, coroner or elisor, and directed to such bailiff or other officer; and if any sheriff, under-sheriff, coroner, elisor, bailiff or other officer shall wilfully transgress in any of the cases aforesaid, or shall neglect to summon any Juror, or shall summon any Juror less than *Four* days before the day on which he is to attend, except
 40 in the cases hereinbefore excepted, the court of assize, nisi prius, oyer and terminer, gaol delivery, or court of sessions of the peace within whose jurisdiction the offence shall have been committed, may and is hereby required, on examination and proof of such offence in a summary way,

36.
 No Money to be taken to excuse Persons from serving.
 6 Geo. IV.
 c. 50. § 43.
 [See Irish A&,
 29 Geo. 2.
 c. 6. § 2.]

None to be summoned but those named in the Warrant.

[See Irish A&,
 17, 18, Geo. 3.
 c. 45. § 7.]

to set such a fine upon every person so offending, as the court shall think meet, according to the nature of the offence.

37.
Penalties on
Collectors for
neglecting to
make out
Lists, &c.
6 Geo. IV.
c. 50. § 45.

And be it further Enacted, That if any such collector as aforesaid shall refuse or neglect (unless prevented by sickness) to make out or assist in making out any list required by this Act, so that the same shall not be made out at the time and in the manner hereinbefore directed, or shall wilfully omit out of such list any man whose name ought to be inserted therein, or shall wilfully insert therein the name of any man who ought to be omitted, or shall take any money or other reward, or promise of money or reward or other consideration, for omitting or inserting any man whatsoever, or shall wilfully insert therein a wrong description of the name, place of abode, title, quality, calling, business or the nature of the qualification of any man, or shall refuse or neglect, in case the number of forms of returns delivered by the clerk of the peace shall be insufficient, to apply to the clerk of the peace for a sufficient number, so that the list may be made out at the time and in the manner hereinbefore directed, or shall refuse or neglect to fix a copy of such list duly signed, or to subjoin thereto such notice as hereinbefore required, on the principal door of any church, chapel or other public place of religious worship within their respective districts of collection, on any of the Sundays on which the same ought to be so fixed, or shall refuse to allow any inhabitant of their respective districts to inspect such list or a true copy thereof gratis, at any reasonable time during the *Three* weeks hereinbefore mentioned, or shall on due notice refuse or neglect to produce such list at such petty sessions as aforesaid, or to answer on oath such questions touching the same as shall there be put, or to attend at such petty sessions, or any such adjournment thereof as aforesaid, every such collector offending in any of the foregoing cases shall for every such offence forfeit a sum not exceeding *Ten* pounds nor less than *Forty* shillings, at the discretion of the Justice before whom he shall be convicted, and shall thenceforth be incapacitated from and he is hereby declared incapable of serving as such collector; and the Justice before whom such offender shall be convicted of any such offence of wrongful insertion or omission shall forthwith in writing under his hand certify the same to the clerk of the peace of the county in which the man or men so wrongfully omitted or inserted shall reside, and the said clerk of the peace shall cause the list in which such wrongful insertion or omission shall have occurred, to be corrected according to such certificate, and shall also give notice thereof to the sheriff or under-sheriff, who shall correct the Jurors' book accordingly.

38.
Penalties on
Clerks of
Peace and
Sheriffs, neg-
lecting their
Duty.

And be it further Enacted, That if any clerk of the peace shall refuse or neglect to cause a sufficient number either of precepts or forms of return to be printed in the manner hereinbefore directed, or shall refuse

refuse or neglect to issue and deliver to any collector within the meaning
 of this Act the precepts as hereinbefore directed, or to annex to the same
 such a number of the forms of return as he shall bonâ fide deem sufficient,
 or to deliver to any collector such additional number thereof as he may
 5 apply for within *Three* days after such application, or shall refuse or
 neglect to provide or prepare a Jurors' book within the time or in the
 manner and form hereinbefore prescribed, or to deliver the same to the
 sheriff or under-sheriff of the county within the time hereinbefore pre-
 scribed, or to give notice to the sheriff or under-sheriff of any wrongful
 10 insertion or omission certified to him by any Justice of the peace as afore-
 said; or if any sheriff or under-sheriff of a county shall make or cause
 to be made any alteration whatsoever in the list of Jurors contained in
 the Jurors book, except in consequence of the conviction of the collectors
 hereinbefore provided for; or if any sheriff or under-sheriff of a county
 15 shall neglect or refuse to provide or prepare a list of Special Jurors in
 the manner and within the time hereinbefore prescribed, or shall wilfully
 write or cause to be written therein the name of any person not qualified,
 or shall wilfully omit thereout the name of any person duly qualified as
 a special Juror, or shall neglect or refuse to write or cause to be written
 20 the several numbers contained in such list upon distinct pieces of parch-
 ment or card, in the manner and within the time hereinbefore prescribed,
 or shall subtract or destroy or by any default or neglect lose any of the
 said pieces of parchment or card, or shall neglect or refuse, upon dis-
 covery of such loss, to supply the same within *Five* days; or if any
 25 sheriff or under-sheriff of a county shall refuse or neglect, within *Ten*
 days after the next succeeding sheriff shall be sworn into or have entered
 upon office, to deliver over to him, as well all the Jurors books and
 lists that shall be made or prepared in the year of his sheriffalty, as also
 such other like books and lists as were prepared in the sheriffalty of any
 30 of his predecessors within four years then next preceding, and which
 were delivered over to him by any of his predecessors, every such clerk
 of the peace, sheriff or under-sheriff, offending in any of the said cases
 shall for every such offence forfeit the sum of *Fifty* pounds, one moiety
 whereof shall be to the use of His Majesty, His heirs or successors,
 35 and the other moiety with full costs to such person as shall sue for the
 same in any of His Majesty's courts of record at Dublin by action of
 debt, bill, plaint or information, wherein no essoign, protection or wager
 of law, nor more than one imparlance shall be allowed; and every such
 clerk of the peace offending in any of the said cases shall be removed
 40 from his office, and shall be incapacitated from, and he is hereby declared
 incapable of being elected to or continued in or holding such office.

6 Geo. IV.
 c. 50. § 46.

Provided always, and it is hereby further Enacted, That nothing
 herein contained shall extend or be construed to extend to deprive any
 Alien, indicted or impeached of any felony or misdemeanor, of the right
 of being tried by a Jury de medietate linguæ, but that on the prayer of
 108.

39.
 Juries de
 Medietate.
 6 Geo. IV.
 c. 50. § 47.
 [See 27 Ed. 3.
 it. 2. c. 8.
 28 Ed. 3. c. 15.

every

8 Hen. 6 c. 20.
in force in
Ireland.]

every alien so indicted or impeached, the sheriff or other proper minister shall by command of the court, return for one half of the Jury a competent number of aliens, if so many there be in the town or place where the trial is had, and if not, then so many aliens as shall be found in the same town or place, if any; and that no such alien Juror shall be liable to be challenged for want of freehold, or of any other qualification required by this Act, but every such alien may be challenged for any other cause, in like manner as if he were qualified by this Act.

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40.
Justices not to
be summoned
as Jurors at
Sessions.
6 Geo. IV.
c. 50. § 43.

And be it further Enacted, That no Justice of the peace shall be summoned or impanelled as a Juror to serve at any sessions of the peace for the jurisdiction of which he is a Justice.

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41.
Qualification
of Jurors in
Liberties,
Cities and
Boroughs, to
remain as
before.
6 Geo. IV.
c. 50. § 50.

And be it further Enacted, That the qualification hereinbefore required for Jurors, and the regulations for procuring lists of persons liable to serve on Juries, shall not extend to the Jurors or Juries in any liberties, franchises, cities, boroughs or towns corporate, not being counties, or in any cities, boroughs or towns being counties of themselves, which shall respectively possess any jurisdiction civil or criminal but that in all such places the sheriffs, bailiffs or other ministers having the return of Juries, shall prepare their panels in the manner heretofore accustomed: Provided, That no man shall be impanelled or returned to serve on any Jury for the trial of any capital offence in any county who shall not be qualified to serve as a Juror in civil causes within the same county; and the same matter and cause being alleged by way of challenge, and so found, shall be admitted and taken as a principal challenge, and the person so challenged shall and may be examined on oath of the truth of the said matter: Provided, That if it shall happen that any such person, not qualified as last aforesaid, shall have been impanelled on any such Jury, and shall be sworn to try the issue in such case as last aforesaid, without any challenge having been taken in due time for the cause aforesaid, no objection shall ever afterwards be admitted or taken for the want of such qualification.

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Persons, unless qualified to serve as Jurors in Civil Causes, not to be returned to serve on Trials for Capital Offences;

but if sworn and impanelled, may not afterwards be objected to.

42.
Qualification
of Jurors on
Writs of Inquiry, &c.
6 Geo. IV.
c. 50. § 52.

And be it further Enacted, That no man shall be liable to be summoned or impanelled to serve as a Juror in any county in Ireland upon any inquest or inquiry to be taken or made by or before any sheriff or coroner by virtue of any writ of Inquiry, or by or before any Commissioners appointed under the great seal, or the seal of the Court of Exchequer, who shall not be duly qualified according to this Act to serve as a Juror upon trials at nisi prius in such county: Provided always, That nothing herein contained shall extend to any inquest of the death of any person to be taken by or before any coroner of a county by virtue of his office, or to any inquest or inquiry to be taken or made by or before any sheriff or coroner of any liberty, franchise, city, borough or town corporate, not being counties, or of any city, borough or town, being

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Exception for
Coroners
Inquests.

being respectively counties of themselves, but that the sheriffs and coroners in all such cases to which this Act doth not extend as aforesaid shall and may respectively take and make all inquests and inquiries by Jurors of the same description as they have been used and accustomed to do before the passing of this Act.

And be it further Enacted, That if any man, having been duly summoned and returned to serve as a Juror in any county in Ireland upon any inquest or inquiry before any sheriff or coroner, or before any of the commissioners aforesaid, shall not, after being openly called *Three* times, appear and serve as such Juror, every such sheriff, or in his absence the under-sheriff, and such coroner and commissioners respectively are hereby authorized and required, unless some reasonable excuse shall be proved on oath or affidavit, to impose such fine upon every man so making default as they shall respectively think fit, not exceeding *Five* pounds ; and every such sheriff, under-sheriff, coroner and commissioners respectively shall make out and sign a certificate, containing the christian and surname, the residence and trade or calling of every man so making default, together with the amount of the fine imposed and the cause of such fine, and shall transmit such certificate to the clerk of the peace for the county in which every such defaulter shall reside, on or before the first day of the quarter session next ensuing ; and every such clerk of the peace is hereby required to copy the fines so certified, on the roll on which all fines and forfeitures imposed at such quarter sessions shall be copied, and the same shall be estreated, levied and applied in like manner, and subject to the like powers provisions and penalties in all respects, as if they had been part of the fines imposed at such quarter sessions.

43.
Sheriffs, Coroners and Commissioners may fine Jurors for Non-attendance.

6 Geo. IV.
c. 50. § 53.

Fines to be enrolled by Clerk of the Peace, and levied as Fines imposed at Quarter Sessions.

And be it further Enacted, That all fines to be imposed under this Act by any of the King's courts of record at Dublin, or by any court of assize, nisi prius, oyer and terminer or gaol delivery, or any court of the sessions of the peace in Ireland, shall be levied and applied in the same manner as any other fines imposed by the same court ; and that all other penalties hereby created (for which no other remedy is given) shall, on conviction of the offender before any one Justice of the peace within the jurisdiction, be levied, unless such penalty be forthwith paid, by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of such Justice, who is hereby authorized to hear and examine witnesses on oath or affirmation on any complaint, and to determine the same, and to mitigate the penalty, if he shall see fit, to the extent of one moiety thereof ; and all penalties, the application whereof is not hereinbefore particularly directed, shall be paid to the complainant ; and for want of sufficient distress the offender shall be committed by warrant under the hand and seal of such Justice to the common gaol or house of correction, for such term, not exceeding *Six* calendar

44.
How Fines and Penalties are to be recovered and applied.
6 Geo. IV.
c. 50. § 55.

calendar months, as such Justice shall think proper, unless such penalty be sooner paid.

45. AND for the more easy and speedy conviction of offenders against this Act, BE it further Enacted, That the Justice before whom any person shall be convicted of any offence against this Act, shall and may cause the Conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case shall happen; videlicet,

Form of Con-
viction.
6 Geo. IV.
c. 50 § 56.

“ BE it Remembered, That on in
“ the year of our Lord at 10
“ A. B. is convicted before me
“ C. D. one of His Majesty’s Justices of the peace for the
“ of for that he the said A. B.
“ did [specifying the offence, and the time and place where the
“ same was committed, as the case shall be] And the said A. B. 15
“ is for his said offence adjudged by me the said Justice to
“ forfeit and pay the sum of Given under
“ my hand and seal the day and year first above mentioned.”

46.
Conviction
not to be
quashed for
want of Form.
6 Geo. IV.
c. 50. § 57.

And be it further Enacted, That no such Conviction shall be quashed for want of form, or be removed or removable by certiorari or by any other writ or process whatsoever into any of His Majesty’s courts of record at Dublin; and that where any distress shall be made for any penalty to be levied by virtue of this Act, the distress itself shall not be deemed to be unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress or other proceedings relating thereto; nor shall such party be deemed a trespasser ab initio, on account of any irregularity which shall be afterwards done by him, but the person aggrieved by such irregularity shall and may recover full satisfaction for the special damage (if any) in an action upon the case, first giving notice in writing of the cause of action to the opposite party *One calendar* month before the commencement of such action; but no plaintiff shall recover in any action for such irregularity if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money to satisfy the damages and costs up to that time shall have been paid into court after such action brought, by or on behalf of the party distraining.

47.
Persons sued
for any thing
done in pur-
suance of this
Act, may
plead the Ge-
neral Issue.
6 Geo. IV.
c. 50. § 58.

And be it further Enacted, That if any suit or action shall be prosecuted against any person for any thing done in pursuance of this Act, such person may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, or, in replevin, may avow generally that the goods in question were taken under and by virtue of this Act; and if a verdict shall pass for the defendant or avowant, or the plaintiff shall become nonsuited, or discontinue his or

477

or her action after issue joined, or if upon demurrer or otherwise judgment shall be given against the plaintiff, the defendant or avowant shall recover double costs, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereon.

And be it further Enacted, That all action, suits and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be laid and tried in the county where the fact was committed, unless where the defendant or avowant in such action shall be the sheriff or under-sheriff or other person having the return of Jury process in such county, in which case it may at the option of the plaintiff be laid and tried in any next adjoining county; and every such action suit and prosecution shall be commenced within *Six* calendar months after the fact committed, and not otherwise; and that notice in writing of such cause of action shall be given to the defendant or defendants, or avowant or avowants, *One* calendar month at least before the commencement of the action.

48.
Venue to be
laid in the
County where
the Fact is
committed.
6 Geo. IV.
c. 50. § 59.

And be it further Enacted, That from and after the passing of this Act, it shall not be lawful either for the King, or any one on His behalf, or for any party or parties in any case whatsoever, to commence or prosecute any writ of attain against any Jury or Jurors for the verdict by them given, or against the party or parties who shall have judgment upon such verdict; and that no inquest shall be taken to inquire of the concealments of other inquests, but that all such attainments and inquests shall henceforth cease, become void, and utterly abolished, any law statute or usage to the contrary notwithstanding.

49.
Writs of
Attaint, &c.
against Juries,
abolished.
6 Geo. IV.
c. 50. § 60.

Provided always, and be it Enacted and Declared, That notwithstanding any thing herein contained, every person who shall be guilty of the offence of embracery, and every Juror who shall wilfully or corruptly consent thereto, shall and may be respectively proceeded against by indictment or information, and be punished by fine and imprisonment in like manner as every such person and Juror might have been before the passing of this Act.

50.
Embracery
and corrupt
Jurors punish-
able by Fine
and Imprison-
ment.
6 Geo. IV.
c. 51. § 61.

And be it further Enacted, That those parts of this Act which relate to the issuing of warrants and precepts for the return of Jury lists, the preparation, production, reformation and allowance of those lists, the holding of petty sessions for those purposes, the formation of a Jurors book, and the delivery thereof to the sheriff, and the preparation of a list of special Jurors, and of parchment or cards in the manner here-
108.

51.
Commence-
ment of Act.

tofore

tofore mentioned, shall commence and take effect so soon after the passing of this Act as the proper periods for doing those things shall occur; and that the rest of this Act shall commence and take effect on the *first day of September* in the year *one thousand eight hundred and twenty-eight*.

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52.
Repeal of an-
cient Acts ex-
tending to
Ireland; viz.

43 Hen. 3.

52 Hen. 3.
c. 14.
c. 24.

13 Ed. 1. c. 30.

c. 38.

21 Ed. 1. ft. 1.

28 Ed. 1. ft. 3.
c. 9.

33 Ed. 1. ft. 4.

34 Ed. 1. ft. 5.
c. 3.

5 Ed. 3. c. 10.

20 Ed. 3. c. 6.

27 Ed. 3. ft. 2.
c. 8.

28 Ed. 3. c. 13.

34 Ed. 3. c. 4.

c. 8.

c. 13.

36 Ed. 3. ft. 1.
c. 13.

And be it further Enacted, That from and after the commencement of the several parts of this Act, the several Statutes and Acts, and parts of Statutes and Acts, hereinafter mentioned, so far as the same relate to Ireland, shall be Repealed; that is to say, So much of the provisions made in the forty-third year of the reign of King Henry the Third, as relates to exemptions from Assizes Juries and Inquests; and so much of a statute made in the fifty-second year of the same reign, as relates to the like exemptions; and so much of the same statute as provides that all being twelve years of age ought to appear at Inquests for the death of man; and so much of a statute made at Westminster in the thirteenth year of the reign of King Edward the First, as directs that the Justices shall not put in Assizes or Juries any other than those that were first summoned to the same at first; and so much of the same statute, as ordains how many and what sort of persons shall be returned on Juries and Petty Assizes; and a statute made in the twenty-first year of the same reign, intituled, "Statutum de illis qui debent poni in Juratis et Assizes;" and so much of a statute made in the twenty-eighth year of the same reign, intituled, "Articule super Cartas," as declares how Inquests and Juries are to be impanelled; and an ordinance made in the thirty-third year of the same reign, commonly called An Ordinance for Inquests; and so much of a statute made in the thirty-fourth year of the same reign, commonly called Ordinatio Forestæ, as enjoins that none of the ministers therein mentioned be put in Assizes Juries or Inquests without the forest; and so much of a statute made in the fifth year of the reign of King Edward the Third, as relates to the punishment of a corrupt Juror; and so much of a statute made in the twentieth year of the same reign, as relates to the punishment of Embracers and corrupt Jurors; and so much of a statute or ordinance made in the twenty-seventh year of the same reign, commonly called The Ordinance of the Staples, as prescribes the mode of trial where one party or both parties are aliens; and so much of a statute made in the twenty-eighth year of the same reign, as directs that all manner of inquests and process shall be taken between aliens and denizens; and so much of a statute made in the thirty-fourth year of the same reign, as accords that panels of inquests shall be of the neighbourhood; and so much thereof as directs the proceedings against Jurors taking a reward to give their verdict; and so much thereof as relates to the qualifications of Jurors on inquests of escheat; and so much of a statute made in the thirty-sixth year of the same reign, as relates to Jurors on inquests of escheat; and so much of the first statute made

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in

- in the thirty-eighth year of the same reign, as ordains the penalty on corrupt Jurors and Embracers ; and so much of a statute made in the forty-second year of the same reign, as directs that panels in assizes shall be arrayed four days before the sessions, and what sort of Jurors shall be put therein ; and so much of a statute made in the seventh year of the reign of King Richard the Second, as relates to granting a writ of nisi prius at the suit of any Jurors ; and so much of a statute made in the eleventh year of the reign of King Henry the Fourth, as directs that Jurors in indictments shall be returned by the sheriffs or bailiffs, without the denomination of any ; and so much of the second statute made in the second year of the reign of King Henry the Fifth, as relates to the qualifications of Jurors ; and so much of a statute made in the sixth year of the reign of King Henry the Sixth, as relates to the panels in special assizes ; and so much of a statute made in the eighth year of the same reign, as relates to inquests and proofs taken between aliens and denizens ; and so much of a statute made in the twenty-third year of the reign, as ordains that no sheriff or under-sheriff shall return any of their officers or servants, in any of the cases therein mentioned ; and an Act passed in the first year of the reign of King Richard the Third, intituled, " An Act for returning sufficient Jurors : " And that the several Acts and parts of Acts passed in the Parliament of Ireland, and hereinafter mentioned, shall also be Repealed ; that is to say, An Act passed in the seventh year of the reign of King Henry the Sixth, intituled, " An Act for the additions of Jurors," and also an Act passed in the thirteenth year of the reign of King Henry the Eighth, intituled, " An Act touching Jurors to pass in attain ; " and also an Act passed in the second session of the tenth year of the reign of King Charles the First, intituled, " An Act concerning the appearance of Jurors in " the Nisi Prius ; " and also an Act passed in the tenth and eleventh years of the same reign, intituled, " An Act for the limiting of peremptory Challenges in cases of Treason and Felonies, and so forth ; " and so much of an Act passed in the sixth year of the reign of Queen Anne, intituled, " An Act for the amendment of the Law and " the better advancement of Justice," as relates to writs of Venire Facias and to Jurors having the View ; and also so much of an Act passed in the sixth year of the reign of King George the First, intituled, " An Act for exempting the Protestant Dissenters of this " kingdom from certain penalties to which they are now subject," as relates to exemptions from serving upon Juries ; and also so much of an Act passed in the twelfth year of the same reign, intituled, " An Act for " the better regulating the office of Sheriffs, and for the ascertaining " their fees, and the fees for suing out their patents and passing their " accounts," as relates to the impanelling or return of Juries ; and also an Act passed in the twenty-ninth year of the reign of King George the Second, intituled, " An Act for better regulating Juries," so far as the same relates to counties at large ; and also so much of an Act passed

38 Ed. 3. c. 12.

42 Ed. 3. c. 11.

7 Rd. 2. c. 7.

11 Hen. 4. c. 9.

2 Hen. 5. ft. 2. c. 3.

6 Hen. 6. c. 2.

8 Hen. 6. c. 29.

23 Hen. 6. c. 9.

1 Rd. 3. c. 4.
 Repeal of
 Acts made in
 the Parliaments of Ire-
 land ; viz.
 7 Hen. 6. c. 1.

13 Hen. 8. c. 3.

10 Car. 1. ft. 2. c. 13.

10 & 11 Car. 1. c. 9.

6 Anne c. 10. § 6. 7. 8.

6 Geo. 1. c. 5. § 11.

12 Geo. 1. c. 4. § 16.

29 Geo. 2. c. 6.

- 13 & 14 Geo. 3. in the thirteenth and fourteenth years of the reign of King George
c. 41. § 1. the Third, intituled, " An Act for reviving and continuing several
" temporary Statutes, and to prevent the destructive practice of trawling
" fish in the Bay of Dublin," as revives or continues the said Act of
the twenty-ninth year of King George the Second ; and also so much
of an Act passed in the seventeenth and eighteenth years of the reign of 5
King George the Third, intituled, " An Act for the amendment of the
" law with respect to Outlawries returning Special Juries, and the future
" effects of Bankrupts in certain cases," as in anywise relates to special
Juries for trials in counties at large ; and also so much of an Act passed
in the twenty-third and twenty-fourth years of the reign of King George 10
the Third, intituled, " An Act for establishing a Post-office within
" this Kingdom," as relates to any exemption from serving upon any
Jury or Inquest ; and also an Act passed in the twenty-fifth year of the
same reign, intituled, " An Act to take away the challenge to the array 15
" of panels of Jurors for want of a Knight, on trials in which a Peer or
" Lord of Paliamment is a party ;" and also so much of an Act passed in
the thirty-fourth year of the same reign, intituled, " An Act for reviving
" and continuing certain temporary Statutes," as revives and makes per-
petual the said Act of the twenty-fifth year of the same reign ; and also so
much of an Act passed in the twenty-sixth year of the same reign, inti- 20
tuled, " An Act for making, widening and repairing Public Roads in the
" County of Dublin, and for repealing parts of several Acts formerly
" made for that purpose," as provides that any Treasurer, Inspector of the
accounts, secretary of the Grand Jury, or collector of any barony, shall 25
not be returned upon any panel for any Jury in the county of Dublin ;
and also so much of an Act passed in the thirty-fifth year of the same
reign, intituled, " An Act for the better regulation of the Receipts and
" Issues of His Majesty's Treasury," and for repealing an Act of Par-
liament passed in the tenth year of Henry the Seventh, intituled, " An 30
" Act authorizing the Treasurer to make all Officers as the Treasurer
" of England doth," as relates to any exemption from serving upon any
Jury ; and that so much of an Act passed in the Parliament of the
United Kingdom of Great Britain and Ireland, in the sixth year of the
reign of His present Majesty, intituled, " An Act for the amendment of
" the Laws with respect to Special Juries, and to Trials in Counties
" of Cities and Towns, and Towns Corporate in Ireland," as relates to 35
Special Juries in ayindictments or informations tried in any county at
large in Ireland, shall also be Repealed : And the said several herein-
before recited Statutes and Acts, and parts of Statutes and Acts, are
hereby severally and respectively repealed accordingly, save only so far 40
as the same or any of them repeals or repeal any other Acts or parts
of Acts : Provided always, That nothing herein contained shall be con-
strued to affect or alter any part of an Act passed in the Parliament of
Ireland in the nineteenth year of the reign of King George the Second,
intituled, " An Act for accepting the solemn Affirmation or Declaration
" of

Repeal of Act
of United Par-
liament.

6 Geo. IV.
c. 51. § 1.

Not to affect
Act relating
to Quakers.

6 Geo. IV.
c. 50. § 63.

“ of the people called Quakers, instead of an Oath in the usual form : ”

Provided also, That nothing herein contained shall extend or be construed to extend to alter abridge or affect any power or authority which any Court or Judge now hath, or any practice or form in regard to trials
 5 by Jury, Jury Process, Juries or Jurors, except in those cases only where any such power or authority, practice or form is repealed or altered by this Act, or is or shall be inconsistent with any of the provisions thereof, nor to abridge or affect any privilege of Parliament :

Provided also, That nothing herein contained shall extend to or in any manner affect any Jurors or Juries in any matter or cause to be heard

10 or tried by civil bill before any assistant barrister in Ireland, but that all such matters and causes may be heard and tried as before the passing of this Act.

Not to affect
Powers unre-
pealed.

6 Geo. IV.
c. 50. § 64.

Nor Juries on
Civil Bills
before Assis-
tant Barristers.

SCHEDULE

County of } TO the Collector of Grand Jury Cess [or, A. B. one
to wit. } of the Collectors of Grand Jury Cess] in the Barony
[or, Half Barony] of in the said County.

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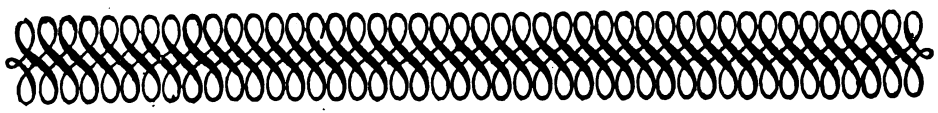
and licentiates of the King and Queen's College of Physicians in Ireland, and all other physicians; all members of the Royal Colleges of Surgeons in London, Edinburgh and Dublin; and apothecaries certificated by the Court of Examiners of the Governor and Company of the Apothecaries Hall of the city of Dublin, if actually practising as physicians, surgeons or apothecaries respectively; all the officers of the Navy and Army on full pay; all officers of Customs and Excise; all sheriffs officers, high constables, police constables and parish clerks; all persons employed or acting in the service of His Majesty's Post-office; all treasurers, inspectors of grand jury accounts, secretaries of grand juries, and barony collectors, and also all persons exempt by virtue of any prescription, charter, grant or writ; And when you have made out such list, you are authorized to order a sufficient number of copies thereof to be printed (the expense of which printing will be allowed you by the county;) and you are required, on the *Three first Sundays in September next*, to fix a copy of such list, signed by you, on the principal door of every church, chapel, or other public place of religious worship within your district of collection; and also to subjoin to every such copy a Notice to the following effect, inserting the time and place, of which you shall be previously informed:

“ TAKE NOTICE, That all Objections to the foregoing
 “ List will be heard by the Justices in Petty Sessions, on the
 “ day of September next, at the hour of
 “ at

And you must allow any Inhabitant of your district to inspect the original list, or a true copy of it, during the *Three first weeks of September next* gratis; and you are also further required to produce the said list at such petty sessions, and there to answer on oath such questions as shall be put to you by His Majesty's Justices of the peace there present, touching the said list; and these several matters you are in nowise to omit, upon the peril that may ensue. Given under my hand, at in the said county, the day of in the year

Clerk of the Peace for the said county.

8 June 1830.



A

B I L L

To amend an Act passed in the Fifth Year of His present Majesty for the Transportation of Offenders from Great Britain, and for punishing Offences committed by Transports kept to labour in the Colonies.

Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.

WH **H**EREBY by an Act passed in the fifth year of the reign of His present Majesty, intituled, “ An Act for the Transportation of Offenders from Great Britain,” it is amongst other things enacted, that it shall be lawful for His Majesty, by and with the
5 advice of His Privy Council, from time to time to appoint any place or places beyond the seas, either within or without His Majesty’s Dominions, to which Felons and other Offenders under sentence or order of transportation or banishment shall be conveyed; and that
10 when any offenders shall be about to be transported or banished from Great Britain, one of His Majesty’s principal Secretaries of State shall give orders for their removal to the ship to be employed for their transportation, and shall authorize and empower some person to make a contract for their effectual transportation to some of the places so appointed, and shall direct security to be given for their effectual transportation, in the manner thereafter mentioned; and it is thereby
15 further enacted, that whenever the transportation of any such offender shall take place in any ship belonging to His Majesty, it shall be lawful for one of the principal Secretaries of State, by warrant under his hand to nominate some person or persons who shall have the custody of such offender during the voyage, and thereupon such offender may be delivered to such nominee or nominees without any contract or security being
512. A required

Preamble :
5 Geo. IV.
c. 84. s. 3.

s. 8.

required or given for the effectual transportation of such offender ; and it is thereby further enacted, that so soon as any such offender shall be delivered to the Governor of the colony, or other person or persons to whom the contractor or such nominee or nominees as aforesaid shall be so directed to deliver him or her, the property in the service of such offender shall be vested in the Governor of the colony for the time being, or in such other person or persons as aforesaid : 5

AND whereas divers felons and other offenders have heretofore been transported from Great Britain to His Majesty's colonies of South Wales and Van Diemen's Land respectively, and in pursuance of the directions of one of the principal Secretaries of State have been delivered to the Governors of those respective colonies, or other persons in those colonies to whom such respective contractors or nominees as aforesaid have been so directed to deliver them ; but from divers unforeseen causes it hath occurred that some of such offenders have been landed and put on shore and delivered at one of the beforementioned colonies, who ought according to such directions as aforesaid to have been landed and put on shore and delivered at the other of the beforementioned colonies : AND whereas under the licenses of the Governors of the said respective colonies, divers offenders who had been transported as aforesaid have from time to time been removed from the one to the other of the said colonies ; AND whereas doubts have arisen, whether offenders who have been so landed, put on shore and delivered or removed as aforesaid, can within the respective colonies in which they are now respectively resident be lawfully dealt with in such and the same manner as if they were respectively resident within the colony to which they were originally sentenced or ordered to be transported ; 10 15 20 25

Felons ordered to be put on shore in the one Colony, but in fact put on shore in the other Colony ;

and Felons removed from the one Colony to the other, with consent of the Governor ;

are made subject to the same rules, and liable to be dealt with as all other Convicts in the same Colony.

~~Be it therefore Enacted and Declared~~, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT all Felons and other Offenders who have heretofore been transported from Great Britain to New South Wales or to Van Diemen's Land, or to their respective dependencies, and who having been contracted or ordered to be landed and put on shore and delivered in one of those colonies, have in fact been landed and put on shore and delivered at the other of those colonies, and that all such felons and other offenders who under the license or by the order or with the consent of the Governor, or of the officer administering the government of either of the said colonies, have been removed from the one to the other of such colonies, shall, within the colony in which they are respectively now resident, be subject and liable to all such and the same laws, rules and regulations as if they had been contracted or ordered on their original transportation to be delivered to the Governor or the officer administering the government of such colony, and shall, within 30 35 40

within the colony in which they are respectively now resident, be dealt with, governed and disposed of in all respects in such and the same manner as other convicts within the same colony; and that the property in the service of all such offenders shall be vested in the Governor or officer administering the government of the colony in which they are
 5 actually resident, in the same manner and subject to all such and the same rules and conditions as if they had been contracted or ordered on their original transportation to be delivered to him.

And be it further Enacted, That in any case in which a ship conveying felons or other offenders from the United Kingdom of Great Britain and Ireland, the master of which has entered into a contract or been ordered to deliver such felons or other offenders at the colony or place specified in such contract or order, shall, by stress of weather or other circumstances, convey such felons or other offenders to any
 15 other colony or place to which such offenders may legally be transported or banished, the Governor or officer administering the government of such other colony or place is hereby authorized, if he shall deem it expedient, to receive and retain such felons or other offenders in the said colony or place; and the said felons or other offenders shall be subject
 20 and liable to all such and the same laws, rules and regulations as if they had been contracted or ordered on their original transportation to be delivered to him.

The Governor of the one Colony may receive Felons who are ordered to be delivered in the other Colony.

And be it further Enacted and Declared, That it shall be lawful for the Governor or the officer administering the government of either of the
 25 said colonies, with the concurrence of the Governor or officer administering the government of the other of the said colonies, by an order in writing under his hand to authorize the removal of any such convicts as aforesaid from the colony under his government to the other of the said colonies, and for that purpose to deliver any such convicts into the
 30 charge of the master of any ship, or any other proper person proceeding directly to the colony to which such removal is to be made, and to contract with such master or other person for the effectual removal of such convicts to such other colony, and to take security by bond to His Majesty, that he will effectually remove or cause to be removed every
 35 convict included in such contract to the colony to which it is proposed so to remove him, and procure from the Governor or officer administering the government of such colony a certificate of the landing of such convict there (death and casualties by sea excepted) and that such convict shall not be suffered to escape from the vessel in which he or she
 40 shall be so removed by the wilful default of such contractor or of any person employed by him.

The Governor of one Colony may remove Felons to the other Colony.

And be it further Enacted, That all and every the laws in force for the punishment of misbehaviour or disorderly conduct by any offender
 512.

Convicts removed from one Colony to another liable on

to the same punishment for disorderly conduct on board ship, as if transported from Great Britain.

Convicts removed from one Colony to another subject to regulations of Colony to which removed.

on board of any ship in which he or she may be transported from Great Britain, shall apply and extend and are hereby extended to every convict who by virtue of any such order as aforesaid shall be removed from either of the said colonies to the other of them.

And be it further Enacted, That so soon as any such convict shall be delivered to the Governor or to the officer administering the government of the colony to which he or she shall be so removed, such convict shall within such colony be subject and liable to all such and the same laws, rules and regulations as if he or she had been contracted or ordered on his or her original transportation to be delivered to the Governor or the officer administering the government of such colony, and shall be there dealt with, governed and disposed of in all respects in such and the same manner as other convicts within the same colony; and that the property in the service of every such convict shall be vested in the Governor or officer administering the government of the colony to which he or she may be so removed, in the same manner and subject to all such and the same rules and conditions as if he or she had been contracted or ordered on his or her original transportation to be delivered to such Governor or officer as aforesaid.

(Regulations are made under s. 15 of 5 Geo. IV. c. 84.)

Supplying Spirituous Liquors to Offenders in places of confinement in England and Wales or abroad.

(This is the same provision as in *Gaol Act*, 4 Geo. 4. c. 64. s. 40, and here extended to the Hulks and places of confinement abroad under the management of the Superintendent.)

And be it further Enacted, That if any person, in contravention of the existing rules and regulations for the government of any place of confinement for male offenders under sentence or order of transportation within England or Wales, or in any part of his Majesty's dominions out of England, shall carry or bring or attempt or endeavour to carry or bring into any such place of confinement as aforesaid, or shall supply or cause to be supplied to any offender there confined as an offender any spirituous or fermented liquors, it shall be lawful for any overseer or other officer belonging to such place of confinement to apprehend or cause to be apprehended such person, and to carry such person before a Justice of the peace (who is hereby empowered to hear and determine such offence in a summary way,) and if he shall lawfully convict such person of such offence, he shall forthwith commit such person to the common gaol or house of correction of the place where the same shall be heard and determined, there to be kept in custody for any time not exceeding *Three* months, without bail or mainprize, unless such person shall immediately pay down such sum of money, not exceeding *Twenty* pounds and not less than *Ten* pounds, as the said Justice shall impose upon such person, *Ten* pounds thereof to be paid to the informer, and the other to be paid and made applicable to the maintenance of the place employed for the confinement of offenders under sentence of transportation as aforesaid.

5 Geo. 4. c. 84. s. 2.

AND whereas by the aforesaid Act of the fifth year of His Majesty's reign it is enacted, that whenever His Majesty shall be pleased to extend

extend mercy to any offender convicted of any crime for which he or she is or shall be excluded from the benefit of clergy, upon condition of transportation beyond the seas, either for the term of life or any number of years, and such intention of mercy shall be signified by one of His Majesty's principal Secretaries of State to the court before which such offender hath been or shall be convicted, or any subsequent court with the like authority, such court shall allow to such offender the benefit of a conditional pardon, and make an order for the immediate transportation of such offender; and in case such intention of mercy shall be so signified to the Judge or Justice before whom such offender hath been or shall be convicted, or to any Judge of His Majesty's Court of King's Bench or Common Pleas, or to any Baron of the Exchequer of the degree of the coif in England, such Judge, Justice or Baron shall allow to such offender the benefit of a conditional pardon, and make an order for the immediate transportation of such offender in the same manner as if such intention of mercy had been signified to the court during the term or session in or at which such offender was convicted, and such allowance and order shall be considered as an allowance and order made by the court before which such offender was convicted, and shall be entered on the records of the same court by the proper officer thereof, and shall be as effectual to all intents and purposes and have the same consequences as if such allowance and order had been made by the same court during the continuance thereof; and every such order, and also every order made by the Court of Justiciary in Scotland for the transportation of any offender whose sentence of death shall be remitted by His Majesty, shall subject the offender to be conveyed beyond the seas under the provisions of this Act: AND whereas it is expedient that the like powers should be given in all cases wherein mercy shall be extended upon condition of imprisonment to any offender convicted of any crime punishable by death; BE it therefore further Enacted, That whenever His Majesty shall be pleased to extend mercy to any offender convicted of any crime punishable by death, upon condition of imprisonment, and such intention of mercy shall be signified by one of His Majesty's principal Secretaries of State to the court before whom such offender hath been or shall be convicted, or any subsequent court with the like authority, such court shall allow to such offender the benefit of a conditional pardon, and make an order for the imprisonment of such offender; and in case such intention of mercy shall be so signified to the Judge or Justice before whom such offender hath been or shall be convicted, or to any Judge of His Majesty's Court of King's Bench or Common Pleas, or to any Baron of the Exchequer of the degree of the coif in England, such Judge, Justice or Baron shall allow to such offender the benefit of a conditional pardon, and make an order for the imprisonment of such offender in the same manner as if such intention of mercy had been signified to the court during the term or session in or at which such offender was convicted, and such allow-

Power to Principal Secretary of State to signify the Royal mercy, in capital cases, on condition of imprisonment.

ance and order shall be considered as an allowance and order made by the court before which such offender was convicted, and shall be entered on the records of the same court by the proper officer thereof, and shall be as effectual to all intents and purposes and have the same consequences as if such allowance and order had been made by the same court during the continuance thereof; and every such order, and also every order made by the Court of Justiciary in Scotland for the imprisonment of any offender whose sentence of death shall be remitted by His Majesty, shall subject the offender to be imprisoned. 5

5 Geo IV.
c. 84, s. 11.

s. 13.

Power given
to appoint
an Assistant or
deputy to
Superintendant
at places
of confinement
out of Eng-
land.

AND whereas by the aforesaid Act of the fifth year of His Majesty's reign, power is given to His Majesty to appoint a Superintendant of places of confinement within England and Wales; and by the said Act power is also given to remove male Offenders convicted in Great Britain, and being under sentence or order of transportation, and to confine such offenders at land or on board any vessel to be provided by His Majesty within the limits of any port or harbour in any part of His Majesty's dominions out of England named in any Order in Council, under the management of the said Superintendant and of an overseer to be appointed by His Majesty for each such vessel or other place of confinement: AND whereas it is expedient that power should be given to His Majesty to appoint an Assistant or deputy to the said Superintendant, in any such part of His Majesty's dominions out of England; BE it therefore Enacted, That it shall be lawful for His Majesty, in case it shall be deemed expedient, to appoint a fit and able person to be Assistant or deputy to such Superintendant, at any such place of confinement out of England named in any Order in Council as aforesaid, to be constantly resident at or near the place to which he shall be appointed. 10 15 20 25

11 Geo. IV.—Sess. 1830.

A

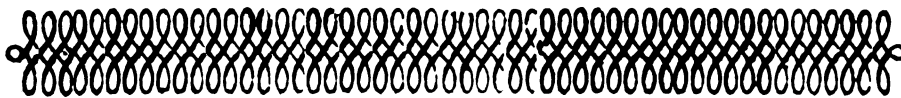
B I L L

To amend an Act passed in the Fifth year of His present Majesty for the Transportation of Offenders from Great Britain, and for punishing Offences committed by Transports kept to labour in the Colonies.

Ordered, by The House of Commons, to be Printed,
8 June 1830.

30 April 1830.

491



A

B I L L

To supply an Omission in an Act of the Sixth Year of His present Majesty, for amending the Laws relating to Bankrupts.

- W** **H** **E** **R** **E** **A** **S** an Act was passed in the sixth year of the reign of His present Majesty, intituled, "An Act to amend the Laws relating to Bankrupts," whereby it is amongst other things enacted, That the Lord Chancellor may, upon Petition, direct any Depositions, Proceedings or other matter relating to Commissions of Bankruptcy, to be entered of record by a proper person to be appointed by the Lord Chancellor for that purpose, or his deputy: And whereas provision is therein omitted to be made for making such Depositions or Office Copies of the Record thereof evidence in the event of the death of the person or persons by whom such depositions were made; **BE it therefore Enacted**, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **THAT** in the event of the death of the person or persons by whom any deposition or depositions shall have been made under any Commission of Bankruptcy already issued or to be hereafter issued, relative to the trading of the person or persons or of any or either of the persons against whom such commission shall have issued, or to any act or acts of bankruptcy committed by him or them or any or either of them, and also in the event of such deposition or depositions being entered of record pursuant to the said Act, such deposition or depositions having a certificate thereon purporting to be signed by the person for the time being appointed to enter of record depositions, proceedings, or other matter relating to Commissions of Bankruptcy,
- Preamble:
- Depositions, or Office Copies of the Record thereof, shall be evidence in the event of the Death of the Person making the same.
- 346.

Bankruptcy, pursuant to the said Act, or his deputy, the same shall and
 may upon all occasions, without any proof of the signature of the person
 so appointed, or of his deputy, or of the signature of the person or
 persons by whom such deposition or depositions was or were made, be
 given and received in evidence to prove such commission, and the
 trading and act or acts of bankruptcy of the person or persons against
 whom such commission shall have issued, or any or either of them, in
 any court of law or equity ; and in case such deposition or depositions
 shall be lost or mislaid, then an office copy or office copies of the record
 of such deposition or depositions, signed by the person appointed to
 enter of record as aforesaid, or his deputy, shall and may upon all
 occasions, without any proof of the signature of the person so appointed
 to enter of record as aforesaid, or of his deputy, be given and received
 in evidence to prove such commission, and the trading and act or acts
 of bankruptcy of the person or persons against whom such commission
 shall have issued, or any or either of them, in any court of law or equity,
 any law, usage or custom to the contrary notwithstanding.

11 GEO. IV.—SECS. 1830.

A

B I L L

To supply an Omission in an Act of the Sixth
Year of His present Majesty, for amending
the Laws relating to Bankrupts.

*Ordered, by the House of Commons, to be Printed,
30 April 1830.*

7 July 1830.

503



A

B I L L

[AS AMENDED BY THE COMMITTEE]

For the relief of the Representatives of Persons who have died intestate in the Presidency of *Madras* in the *East Indies*, and for the relief of the Suitors of the Supreme Court of Judicature at *Madras* aforesaid.

WH **HEREBY** *Gilbert Ricketts* esquire, deceased, late Registrar of the Supreme Court of Judicature at *Madras* in the *East Indies*, was, as such registrar, empowered by an Act of the thirty-ninth and fortieth years of the reign of King GEORGE the Third, intituled,
5 “ An Act for establishing further regulations for the government of
“ the *British Territories in India*, and the better administration of Justice
“ within the same,” to administer to all *British* subjects dying intestate within the Presidency of *Madras*; and the said Court was thereby directed to grant such letters of administration to the Registrar of the court ;
10 and accordingly the said *Gilbert Ricketts* did obtain from time to time administrations out of the said Court to several persons who had died intestate within the said Presidency of *Madras*, and as such administrator collected their estates and effects :

Preamble.

And whereas the said *Gilbert Ricketts* got into his hands and possession, as such registrar, certain sums of money ordered by the said Court to be paid into court by the suitors thereof, and afterwards died insolvent on or about the fourth day of December one thousand eight hundred and seventeen, without having lodged in the treasury at *Madras* the monies and effects he had so as aforesaid received on account of the estates of intestates and from the suitors of the said court ; by reason whereof those persons representing the said intestates and
623. A lawfully

lawfully entitled to their estates, as well as the suitors of the said court, have suffered great loss and damage in this respect :

And whereas, in order to know the state and particulars of the deficiency of the said Gilbert Ricketts in respect of the estates of intestates and the monies paid in by the suitors of the court, that came to his hands, the honourable the Judges of the said court, Sir John Newbelt and Sir Edmund Stanley, made an order, bearing date the fifteenth day of December one thousand eight hundred and seventeen, whereby it was referred to Mr. John Shaw the then Registrar of the said court, Mr. George Garrow the Accountant General, Sir Samuel Toller, knight, Advocate General, Mr. Henry Byne, barrister at law, and Mr. Robert Orme, Company' solicitor, as a committee or commissioners to inquire into and report upon the accounts of the then late registrar Mr. Gilbert Ricketts, relative to the suitors money and the estates of deceased persons which came to his hands :

And whereas the survivors of the said Commissioners made their report to the said Court, bearing date the twenty-ninth day of July one thousand eight hundred and twenty, whereby they reported, That in respect to the estates of intestates that came to the hands of the said Gilbert Ricketts, there was a deficiency of Pagodas One hundred and twenty-three thousand one hundred and five and thirty-seven fanams, making in *British* sterling money, at the rate of eight shillings to the pagoda, Forty-nine thousand two hundred and forty-two pounds, and in that of the suitors a deficiency of Pagodas One thousand six hundred and sixty-two, making in *British* sterling, at the rate aforesaid, Six hundred and sixty-four pounds and sixteen shillings ; the particulars whereof, and the estates and suitors to whom due, are set out in the Schedules to the said Report annexed, and forming part thereof, marked (A.) (B.) (C.) and (D.):

And whereas, upon the aforesaid Commissioners having made the aforesaid Report of the twenty-ninth of July one thousand eight hundred and twenty, to the said Court at *Madras*, in pursuance of the order of the said Court, of the fifteenth day of December one thousand eight hundred and seventeen, the honourable the Judges of the said Court transmitted the same on the thirtieth day of August one thousand eight hundred and twenty, to the Governor in Council at *Madras*, stating that Mr. Ricketts died insolvent, and that there was no fund applicable to the discharge of the balances reported due, and recommended it as highly important to public justice that some fund should be provided for the discharge of such claims :

And whereas Myles O'Reilly, of the city of *Dublin*, esquire, the brother and personal representative of Colonel Edward O'Reilly, who died

died intestate in the presidency of *Madras* in the *East Indies*, and to whom the said Gilbert Ricketts obtained administration, and as such official administrator collected his estate and assets, a considerable part whereof the said Gilbert Ricketts drew out of the *East India Company's* treasury at *Madras*, without any order of the Court obtained for that purpose; and Robert Sinclair, of Walton-upon-Thames, esquire, the brother and next of kin of Captain Charles Sinclair, who also died intestate in the presidency of *Madras*, to whose estate the said Gilbert Ricketts also, in virtue of his office, administered and collected his assets; respectively petitioned The Honourable the House of Commons, setting forth the matters aforesaid and the losses they had respectively sustained, and setting forth, that they had respectively memorialized the Court of Directors of the *East India Company*, praying to be reimbursed their losses, but that the said Court of Directors did not consider that Court authorized to comply therewith, and praying this House to adopt such measures for their relief as to this House should seem just and meet; whereupon, by Order, bearing date the twenty-second day of May one thousand eight hundred and twenty-eight, this House ordered a return to be made to this House, by the *East India Company*, of certain papers respecting the office of Registrar of the Supreme Court of Judicature at *Madras* :

And whereas the Court of Directors of the *East India Company*, and the Commissioners for the Affairs of *India*, made the returns required by the said Order of the twenty-second day of May one thousand eight hundred and twenty-eight, upon the twenty-fifth day of June and seventh of July in the said year one thousand eight hundred and twenty-eight :

And whereas the House of Commons, upon the fifth day of May one thousand eight hundred and twenty-nine, appointed a Select Committee of the House, to inquire into the Claims of the said Myles O'Reilly and other sufferers by the insolvency of Gilbert Ricketts, late registrar of the Supreme Court at *Madras*, and to report their observations thereupon to The House :

And whereas the said Select Committee made their Report to The House of Commons on the nineteenth day of May one thousand eight hundred and twenty-nine, and therein reported,

“ That Gilbert Ricketts was between the months of January one thousand seven hundred and ninety-eight and September one thousand eight hundred, appointed registrar to the Recorder's Court at *Madras*, and when the Supreme Court entered upon the execution of its functions in the year one thousand eight hundred and one, the said Gilbert Ricketts was appointed to the office of Registrar, in which office he continued until his death. As such Registrar, he was empowered to take out administration to British subjects dying
“ intestate

“ intestate within the Presidency of *Madras*, by the statute of the
 “ thirty-ninth and fortieth of his late Majesty, chapter seventy-nine,
 “ which enacts ‘ That from and after the month of March one thou-
 “ ‘ sand eight hundred and one, when any *British* subject shall die
 “ ‘ intestate in any of the three Presidencies, and on return of cita- 5
 “ ‘ tion no next of kin or creditor shall make out their claim to the
 “ ‘ administration, it shall be lawful for the Registrar of the Court re-
 “ ‘ spectively, and he is hereby required to sue out, and such Court is
 “ ‘ required to grant, letters *ad colligenda bona* or administration, by
 “ ‘ virtue whereof such Registrar shall collect the assetts of the deceased, 10
 “ ‘ and bring them for safe custody into such Court, and account for
 “ ‘ them regularly in such manner as is now by law provided where
 “ ‘ assetts are vested in the hands of any officer of the Court under or
 “ ‘ by virtue of its equitable jurisdiction.’ He died suddenly at *Madras*
 “ in the month of December one thousand eight hundred and seventeen, 15
 “ a short time after the period when the *Supreme Court* had entertained
 “ a proposition for adopting new regulations providing for the safe
 “ custody of the assetts of deceased *British* subjects which might come
 “ to the hands of the Registrar in his official capacity ; that prior to his
 “ decease he had received out of intestates property a sum equivalent 20
 “ to about Seven hundred thousand pounds sterling, leaving a balance
 “ against him equivalent to about Forty-nine thousand pounds sterling
 “ due to the next of kin, or others having legal pretensions to the pro-
 “ perty of such intestates, amongst whom Myles O’Reilly, esquire, of
 “ the city of Dublin, and Mr. Robert Sinclair of Walton upon Thames, 25
 “ have already brought forward claims for compensation, which they
 “ offer to substantiate. Lieutenant-colonel Edward O’Reilly, one of
 “ the aforesaid intestates, died upon the twenty-second of March
 “ one thousand eight hundred and sixteen, and Mr. C. Sinclair in the
 “ same year : 30

“ By the statute Fifty-fifth George Third, chapter eighty-four, section
 “ five, it is enacted, That the Registrar should half yearly exhibit in
 “ open court a true Schedule of his Receipts on account of such intes-
 “ tates estates, and that it be published by him in fourteen days in
 “ the *Gazettes*, and that he shall cause copies to be delivered to the 35
 “ Chief Secretary, to be transmitted to the Court of Directors of the
 “ *East India Company*, who upon receipt shall cause the same to be
 “ published in the *London Gazette*. The Schedules of the Estates of
 “ Lieutenant-colonel Edward O’Reilly, of Mr. Sinclair, and of many
 “ other intestates, were omitted by Gilbert Ricketts in those Schedules 40
 “ exhibited or delivered by him :

“ That the loss sustained by the Petitioners and others appears to
 “ the Committee to have originated in the malversation of Gilbert
 “ Ricketts, acting under the authority of the above statutes ; and as he
 “ died insolvent, without having been required, either by the Acts of
 “ Parliament or by the regulation of the *Supreme Court*, to deposit
 “ or

“ or provide security for his good conduct, there exists no fund from
 “ which these injured persons can legally recover compensation for the
 “ losses to which they find themselves subjected by no neglect or
 “ default of their own. Neither the Government of *Madras*, nor the
 5 “ *East India* Company, are responsible for the losses; no individual,
 “ and no body of men, can be compelled by any legal proceeding to
 “ satisfy their claims :

“ That under the peculiar circumstances of this case, it seemed fit to
 “ the Committee to make compensation to such individuals as might
 10 “ prove their losses, upon such conditions as might be deemed reason-
 “ able for avoiding delay, expense and deception :

“ The Committee therefore recommend to the favourable considera-
 “ tion of the House the propriety of providing for such compensation
 “ out of those public funds which the House might deem most appro-
 15 “ priate to the purpose :”

And whereas it is just and fitting that provision shall be made
 for the speedy payment of the persons who shall appear entitled to
 the estates of the said intestates, and those entitled as suitors of the
 said court, as set out in the said Report of the twenty-ninth day of
 20 July one thousand eight hundred and twenty, and the several Sched-
 ules thereto annexed, with Interest for the same from the fourth day
 of December One thousand eight hundred and seventeen, at the rate
 hereinafter mentioned; But, inasmuch as the Court of Directors
 apprehend that the *East India* Government is not enabled without
 25 the aid of an Act of Parliament to appropriate any part of their revenues
 to do the justice this state of things demands ;

~~BE~~ **it Enacted**, by The KING's most Excellent MAJESTY, by and
 with the advice and consent of the Lords Spiritual and Temporal, and
 Commons, in this present Parliament assembled, and by the Authority of
 30 the same, THAT it shall and may be lawful to and for the Court of
 Directors of the *East India* Company, and the said Court of Directors
 is hereby authorized and empowered, and are hereby required, from and
 immediately after the passing of this Act, to appropriate so much of the
 territorial revenues of the said *East India* Company arising out of the ter-
 35 ritorial possessions of the said Company in the *East Indies* as will be
 sufficient to pay off and discharge to such persons as shall appear to be
 entitled thereto as the lawful representatives of the intestates named in
 the Schedules annexed to the said Report of the twenty-ninth day of July
 one thousand eight hundred and twenty, marked (D.) and also to the
 suitors of the said Court named in the Schedules annexed to the said
 Report of the twenty-ninth day of July one thousand eight hundred and
 twenty, marked respectively (A.) (B.) and (C.) or to the lawful representatives
 of such of the said suitors who have since deceased, and shall appear to

be entitled thereto, the several and respective principal sums of money set forth and specified in the said Schedules respectively as due to the estates of the intestates and the suitors therein respectively named, with interest upon each and every of said principal sums at the rate hereinafter mentioned from the time aforesaid.

5

And be it further Enacted, That out of the fund so to be provided in manner aforesaid and for the purposes aforesaid, that the Court of Directors of the *East India* Company do and shall, upon demand being made by any person or persons resident in Europe, being the legal representative or representatives of any of the intestates named in the Schedule marked with the letter (D.) annexed to the said Report of the twenty-ninth day of July one thousand eight hundred and twenty, pay unto such person and persons so qualified as aforesaid, such principal sum and sums of money as appears or appear in and by the said Schedule marked (D.) to be due to the estate and estates which such person or persons so claiming or demanding to be paid respectively represent, the same several and respective principal sums, being converted into *British* Currency at the rate of exchange current at the time of the respective payments thereof, together with interest for the same at the rate of four per centum ; and that the said Court of Directors do, and the said Court is hereby authorized and empowered to take credit against the said territorial revenues of the *East India* Company for all such payments as the said Court of Directors shall *bonâ fide* make in obedience to this Act on the account aforesaid.

And be it further Enacted, in order to make speedy payment to the lawful representatives of such of the said intestates named in the said Schedule marked (D.) annexed to the said Report of the twenty-ninth day of July one thousand eight hundred and twenty, and who now reside in the *East Indies*, That the Governor and Council at *Madras* do, upon demand being made by any such persons lawfully qualified and entitled thereof, pay out of the said territorial revenues of the *East India* Company to such person or persons the principal sums mentioned in the said Schedule marked (D.) to the said Report of the twenty-ninth day of July one thousand eight hundred and twenty annexed, as due to the estates of the intestates which such persons so claiming to be paid lawfully represent, with interest for the same at the rate aforesaid, from the time the same ought by law to have been paid until it shall be paid, with such reasonable expenses as any of the said persons shall appear to have been put to in seeking payment of the sums due to him her or them on the account aforesaid ; and that the said Governor and Council of *Madras* do, and is hereby authorized and empowered to take credit in account with the said Court of Directors and *East India* Company for all such sum and sums of money as the said Governor in Council of *Madras* shall *bonâ fide* pay out of the territorial revenues

revenues of the said *East India* Company upon the account aforesaid in obedience to this Act.

AND whereas neither the said Court of Directors of the *East India* Company, nor the Governor in Council of *Madras*, is competent to
 5 ascertain to whom the sums specified and set out in the Schedules annexed to the said Report of the twenty-ninth day of July one thousand eight hundred and twenty, respectively marked (A.) (B.) and (C.) as brought into Court and paid to the said Gilbert Ricketts as the Registrar of the said Court of *Madras*, are now properly due and payable,
 10 and which can only be properly ascertained by the said Supreme Court of Judicature at *Madras*; THEREFORE, and to the end that the same may be properly ascertained by the competent jurisdiction; BE it further Enacted, That the several and respective and principal sums of money set out and specified in the said Schedules to the said Report of the
 15 twenty-ninth day of July one thousand eight hundred and twenty annexed, marked (A.) (B.) and (C.) as due to the suitors of the said Court, be forthwith, or so soon as reasonably may be done after the passing of this Act, paid into and deposited in the Treasury of *Madras*, with the Governor and Council of *Madras*, by the Court of Directors of the *East*
 20 *India* Company, or by the said Governor and Council of *Madras*, with interest for the same, to be computed after the rate and from the time last aforesaid, out of the fund hereby directed to be provided for that purpose out of the territorial revenues of the *East India* Company; and that the said Court of Directors or Government of *Madras*, or either
 25 of them, upon paying the same in manner aforesaid into the Treasury of *Madras* for the purpose aforesaid, may be at liberty and are hereby authorized and empowered to take credit in account against the territorial revenues of the *East India* Company for all such sum and sums of money as shall be *bonâ fide* paid into the Treasury of *Madras* by
 30 the said Court of Directors or the said Governor in Council of *Madras*, for the purposes aforesaid, in obedience to this Act, and that the same, when so brought in and deposited in the Treasury of *Madras*, be, in the usual way and according to the practice of the Court of *Madras*, only paid out of the Treasury under and by virtue of the orders of
 35 the said Supreme Court of *Madras* directing the payment thereof to such of the suitors of the said Court, or their representatives, as the said Court shall find to be entitled thereto.

AND in order to prevent disputes respecting the amount of the principal sums due to the respective representatives of the intestates
 40 estates, and the suitors or the representatives of the suitors of the said Court of *Madras*, named in the several Schedules annexed to the said Report of the twenty-ninth day of July one thousand eight hundred and twenty, marked respectively (A.) (B.) (C.) and (D.); BE it further

Enacted, That the said several and respective principal sums of money set out and mentioned as due to the several and respective estates of the intestates, and to the suitors of the said Court of *Madras* respectively in the said Schedules marked (A.) (B.) (C.) and (D.) annexed to the said Report of the twenty-ninth day of July one thousand eight hundred and twenty, be deemed and taken, as therein set out, as ascertaining the full and entire principal sums, exclusive of interest and reasonable expenses, due to them and each of them respectively, any thing herein contained to the contrary thereof notwithstanding. 5

AND in order that no further delay may take place in the payment of the said demands of the representatives of the said intestates and the suitors of the said Court of *Madras* named in the said Schedules annexed to the said Report of the twenty-ninth day of July one thousand eight hundred and twenty, and the representatives of such of said suitors who may have happened to die since the date of the said Report, the said Court of Directors of the *East India* Company are hereby authorized and empowered, if they shall judge it necessary for the purpose of this Act, to borrow upon the security of the territorial revenues of the said Company such sum and sums of money as may be necessary for the purposes of this Act, and to secure the repayment of the same to the lenders thereof by such ways and means and with such rate of interest or other advantage as the said Court of Directors shall think fit and proper. 10 15 20

AND whereas in case of dispute between the Court of Directors of the *East India* Company and the parties claiming to be entitled as aforesaid, it is expedient to provide a summary remedy for the determination of the same ; BE it further Enacted, That for the final settlement of all claims for compensation in respect of the estates of such intestates, all disputes arising thereon shall, within three months of the periods hereinafter respectively limited for bringing forward the said claims for compensation, be respectively referred to the determination of two arbitrators, the one to be chosen by the Court of Directors of the *East India* Company, and the other to be chosen by the party or parties respectively claiming as aforesaid, or by their respective agents duly authorized therein, with power, in case of vacancy either by death or resignation, to nominate in the same manner other arbitrators in the room of such arbitrators so dying or resigning ; and in case the said arbitrators shall not within one month from their joint appointment determine the same, that then the same shall be fully ended by a third person, to be by the said arbitrators chosen as an umpire ; and that such awards, whether made by the arbitrators themselves or by the umpire so appointed, shall be final and conclusive upon all parties, so that all such awards shall be published within twelve months from and after the 25 30 35 40

the day on which the several claims to be adjudicated thereby have been respectively referred to the said arbitrators as above provided.

AND whereas it is expedient to prescribe a time within which all demands on behalf of the estates of the said intestates should be brought forward ; BE it further Enacted, That in order to entitle a party to the benefit of the present Act, all claims for compensation in respect of the said estates must be given in to the Court of Directors of the *East India* Company, at the *East India* House in *London*, within the several periods hereinafter mentioned, (that is to say) All claims made by parties resident in *Great Britain* or *Ireland*, must be given in as aforesaid within Three months from and after the passing of this present Act, and within Eighteen months from the passing of the same if made by parties resident either abroad or within the limits of the Company's charter.

And be it further Enacted, That the above provisions fixing the period of limitation for the giving in claims in respect of the estates of such Intestates, as well as respecting the appointment of arbitrators for the determination of the same, shall be notified in the *London Gazette* by the said Court of Directors within a month, and in the Gazette of the Presidency of *Madras* within twelve months from the time of the passing of the present Act.

And be it further Enacted, That this Act shall be deemed and taken to be a Public Act ; and shall be judicially taken notice of as such, by all Judges, Justices and others, without being specially pleaded.

1 WILL. IV.—Sess. 1830.

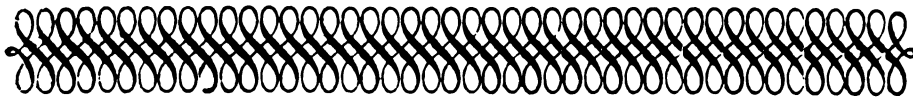
A

B I L L

[AS AMENDED BY THE COMMITTEE]

For the relief of the Representatives of Persons who have died intestate in the Presidency of *Madras* in the *East Indies*, and for the relief of the Suitors of the Supreme Court of Judicature at *Madras* aforesaid.

*Ordered, by The House of Commons, to be Printed,
7 July 1830.*



A

B I L L

To prevent Bribery and Corruption in the Election of Burgesses to serve in Parliament for the Borough of East Retford.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

W~~H~~**HEREAS** there has been the most notorious, long continued and general Corruption in the Election of Burgesses to serve in Parliament for the Borough of East Retford, in the County of Nottingham :

Preamble.

5 And whereas such Bribery and Corruption is likely to continue and be practised in the said Borough in future, unless some means are taken to prevent the same : In order therefore to prevent such unlawful practices for the future, and that the said Borough may from henceforth be duly represented in Parliament ;

10 May it therefore please Your MAJESTY,

That it may be Enacted ; ~~And be it Enacted~~ by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, *THAT from henceforth* it shall and may be lawful to and for every Freeholder, being above the age of twenty-one years, who shall have within the Hundred of Bassetlaw, in the County of Nottingham, or in any place or places locally situate within the outside boundary or limit of the said Hundred of Bassetlaw, or surrounded by such boundary and any part of the County of York or County of Lincoln, a Freehold of the clear yearly value of *Forty Shillings*, to give his Vote at every Election of a Burgess or Burgesses to serve in Parliament for the said Borough of East Retford : Provided always, That all places locally situate within the external boundary

Freeholders to vote at Elections.

29.

boundary or limit of the said Hundred of Bassetlaw, or surrounded by such boundary and by any part of the County of York or County of Lincoln, shall be deemed and taken to be part of the said Hundred for the purposes of this Act.

Right of
Election.

And be it further Enacted, That the Right of Election of a Member 5
or Members to serve in Parliament for the said Borough of East
Retford, shall be and is hereby declared to be in such Freeholders as
aforesaid, and in the persons who by the custom and usage of the said
Borough have or shall hereafter have a right to vote at such election,
(excepting always persons who may have been made freemen by re- 10
demption since the last return of Burgesses to serve in Parliament,
and persons who may hereafter be made freemen by redemption)
and the proper officer for the time being, to whom the return of every
writ or precept does belong, is hereby required to return the person or .
persons to serve in Parliament for the said Borough who shall have the 15
major number of votes of such Freeholders and other persons having
a right to vote at such election ; any law or usage to the contrary not-
withstanding : Provided always, That such Freeholders only shall be
entitled to vote as shall be duly qualified to vote at elections for Knights
of the Shire for the said County of Nottingham, according to the laws 20
now in being for regulating county elections.

Freeholder's
Oath.

And be it further Enacted, That every such Freeholder, before he is
admitted to poll at any Election for the said Borough, shall, if required
by the Candidates, or any of them, or any other person having a right
to vote at the said Election, first take the Oath, or, being one of the 25
people called Quakers, the solemn Affirmation following ; videlicet,

“ I, A. B. do Swear [or, being a Quaker, do solemnly affirm]
“ That I am a Freeholder in the Hundred of Bassetlaw in the
“ County of Nottingham, or in a place thereunto annexed for
“ the purposes of an Act of Parliament made in the eleventh 30
“ year of the reign of His Majesty King GEORGE the Fourth,
“ intituled, [here set forth the Title of this Act] and have
“ a Freehold Estate consisting of [specifying
“ the nature thereof, and if it consists in messuages, lands,
“ tenements or tithes, in whose occupation the same are, and if 35
“ in rent-charge, the names of the owners or possessors of the
“ tenements out of which such rent is issuing, or of some of
“ them] situate, lying or being at in the
“ Hundred of Bassetlaw, or in some place or places annexed
“ thereunto for the purposes of the said Act, of the clear yearly 40
“ value of *Forty Shillings*, over and above all rents and charges
“ payable out of or in respect of the same ; and that I have
“ been in the actual possession or receipt of the rents and
“ profits

11 Geo. IV.—Sess. 1830.

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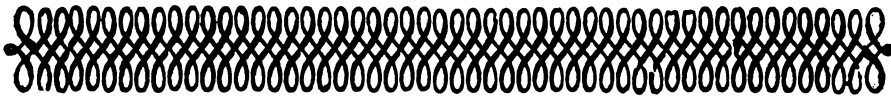
B I L L

To prevent Bribery and Corruption in the
Election of Burgesses to serve in Parliament
for the Borough of East Retford.

Ordered, by The House of Commons, to be Printed,
11 February 1830.

9 February 1830.

5/3



A

B I L L

To authorize the transfer of certain Balances in the hands of the Clerks of the Peace of the several Counties of *England* and *Wales*, on account of Lunatic Asylums Licenses.

WH **E**R **E**A **S** by an Act passed in the fourteenth year of Preamble.
his late Majesty, the Clerks of the Peace of the several Counties in *England* and *Wales* were authorized to receive certain Fees for the granting of Licenses to the Keepers of Lunatic Asylums :
5 **A**N **D** whereas no Provision is made for the appropriation of the Balances of the said Fees after the pay ment of the expenses directed by the said Act to be defrayed out of the said Fees : **A**N **D** whereas considerable Sums arising from the said Balances are now in the possession of the Clerks of the Peace for the several Counties of *England* and *Wales* :
10 **A**N **D** whereas the said Act of the fourteenth year of his late Majesty has since been repealed, and other provisions made for the licensing and visiting Lunatic Asylums ;

May it therefore please Your MAJESTY,

15 **T**H **A**T it may be Enacted ; ~~And be it Enacted~~, by The KING's most Excellent MAJESTY, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **T**H **A**T the Justices of the peace of the several Counties of *England* and *Wales*, at any General Quarter Sessions of the peace assembled, shall and may direct
20 any Balance remaining from the Fees directed to be received under the said Act passed in the fourteenth year of his late Majesty, over and above the expenses directed to be defrayed by the said Act, to be paid over to the Treasurer or Treasurers of the respective Counties, and to be applied in aid of the Rates of the said Counties.

Justices may direct Balance of Fees to be paid to Treasurer of County.

11 GEO. IV.—Sess. 1830.

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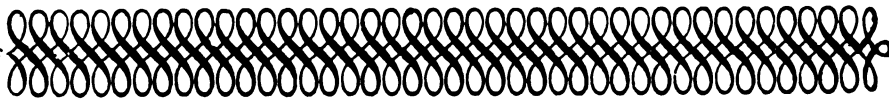
B I L L

To authorize the transfer of certain Balances
in the hands of the Clerks of the Peace of
the several Counties of *England* and *Wales*,
on account of Lunatic Asylums Licenses.

*Ordered, by The House of Commons, to be Printed,
9 February 1830.*

4 March 1830.

579



A

B I L L

To diminish, in certain cases, the Inconvenience and
Expense of Commissions in the nature of Writs *de*
Lunatico Inquirendo.

- W**H~~EREAS~~ great Inconvenience and Expense have been
experienced from the practice of directing or addressing
Commissions in the nature of Writs *de Lunatico Inquirendo* to three
or more persons therein named as Commissioners; ~~BE it therefore~~
5 ~~Enacted~~ by The KING's most Excellent MAJESTY, by and with the
advice and consent of the Lords Spiritual and Temporal, and Com-
mons, in this present Parliament assembled, and by the Authority
of the same, THAT it shall and may be lawful to and for the
10 Lord High Chancellor, the Lord Keeper or Lords Commissioners
of the Great Seal of *Great Britain* for the time being, in case he
or they shall deem it advisable, to cause any Commission in the
nature of a Writ *de Lunatico Inquirendo* to be directed or addressed
to any one of the Judges of His Majesty's Courts of Record at
15 Westminster, who shall make inquisition thereon, and return the
same into the High Court of Chancery, and who for that purpose
shall have the same power to issue precepts to the Sheriff to summon
a Jury, the subpœnas to compel the attendance of witnesses, war-
rants to produce the alleged Lunatic, and all other the like powers
now possessed by the Commissioners in such Commissions named,
20 or any three or more of them, and such inquisition shall be good
and valid to all intents and purposes, as if the said Commission in
the nature of a Writ *de Lunatico Inquirendo* had been directed or
addressed to, and the said inquisition returned by, three or more
Commissioners as heretofore.

Preamble.

Writs *de*
Lunatico
Inquirendo
to be ad-
dressed to
One Judge
instead of
Three Com-
missioners, as
heretofore.

11 Geo. IV.—Sess. 1830.

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B I L L

To diminish, in certain cases, the Inconvenience and Expense of Commissions in the nature of Writs de Lunatico Inquirendo.

Ordered, by The House of Commons, to be Printed,
4 March 1830.

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